

Panaji, 2nd February, 2012 (Magha 13, 1933)

SERIES II No. 44



# OFFICIAL GAZETTE

## GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

**Note:-** There is one Extraordinary issue to the Official Gazette, Series II No. 43 dated 27-01-2012 namely, Extraordinary dated 30-01-2012 from pages 995 to 998 regarding Orders from Department of Home (Home—General Division) and Department of Revenue (Office of the District Magistrate North Goa District).

### GOVERNMENT OF GOA

#### Department of Agriculture

##### Directorate of Agriculture

##### — Order

No. 8/15/2009/D.Agro/34

Read: 1) Order No. 8/15/2011/D.Agro/203 dated 27-07-2011.  
 2) Order No. 8/15/2009/D.Agro/211 dated 03-08-2011.  
 3) Order No. 8/15/2011/D.Agro/158 dated 28-06-2011.

Government is pleased to grant extension of ad hoc promotion to the following Officers for a further period of six months or till their regularization as mentioned against their names on the same terms and conditions as indicated in the above stated Orders:

Sr. No.	Name and designation of Officer	Group	Period of extension of ad hoc promotion to be continued	Remarks
1	2	3	4	5
1.	Shri Datta Kossambe, Asstt. Director of Agri.	Group 'A'	05-10-2011 to 21-12-2011	Promoted on regular basis w.e.f. 22-12-2011.
2.	Shri Nelson Figueiredo, Asstt. Director of Agri.	Group 'A'	05-10-2011 to 21-12-2011	Promoted on regular basis w.e.f. 22-12-2011.
3.	Shri Satish Dev, Assistant Director of Agri.	Group 'A'	05-01-2012 to 21-12-2011	Promoted on regular basis w.e.f. 22-12-2011.
4.	Shri Babal Prabhu, Asstt. Director of Agri.	Group 'A'	05-01-2012 to 04-07-2012	Promoted on regular basis w.e.f. 22-12-2011.
5.	Shri Madhav B. Kelkar, Asstt. Director of Agri.	Group 'A'	05-11-2011 to 04-05-2012	Promoted on regular basis w.e.f. 22-12-2011.
6.	Shri Nevil Alphonso, Asstt. Director of Agriculture	Group 'A'	05-11-2011 to 04-05-2012	Promoted on regular basis w.e.f. 22-12-2011.
7.	Shri Anant Hoble, Agri. Officer	Group 'B'	05-10-2011 to 19-01-2012	Promoted on regular basis w.e.f. 20-01-2012.
8.	Shri Nitin Bakhale, Agril. Officer	Group 'B'	05-10-2011 to 19-01-2012	Promoted on regular basis w.e.f. 20-01-2012.
9.	Shri Shrikant Mone, Agri. Officer	Group 'B'	05-10-2011 to 19-01-2012	Promoted on regular basis w.e.f. 20-01-2012.

## OFFICIAL GAZETTE — GOVT. OF GOA

SERIES II No. 44

2ND FEBRUARY, 2012

1	2	3	4	5
10.	Shri Kishor Bhave, Agri. Officer	Group 'B'	29-11-2011 to 19-01-2012	Promoted on regular basis w.e.f. 20-01-2012.
11.	Shri Pradeep Malik, Agri. Officer	Group 'B'	29-11-2011 to 19-01-2012	Promoted on regular basis w.e.f. 20-01-2012.
12.	Shri Girish Kenkre, Agri. Officer	Group 'B'	05-10-2011 to 04-04-2012	Promoted on regular basis w.e.f. 20-01-2012.
13.	Shri Dattaprasad Dessai, Agri. Officer	Group 'B'	05-11-2011 to 04-05-2012	Promoted on regular basis w.e.f. 20-01-2012.
14.	Shri Anil A. De Noronha, Agri. Officer	Group 'B'	05-11-2011 to 04-05-2012	Promoted on regular basis w.e.f. 20-01-2012.
15.	Shri Shivram B. Naik Gaonkar, Agri. Officer	Group 'B'	05-11-2011 to 04-05-2012	Promoted on regular basis w.e.f. 20-01-2012.

This is issued with due concurrence of the Goa Public Service Commission vide their letter No. COM/II/11/2(3)/92-06(Part file)/1792 dated 19-01-2012.

By order and in the name of the Governor of Goa.

*S. S. P. Tendulkar*, Director & ex officio Joint Secretary (Agriculture).

Tonca, Caranzalem, 23rd January, 2012.

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**Order**

No. 2/14/95-AGR(Part)/36

Read: 1) Order No. 2/14/2009-AGR(PART)/288 dated 15-12-2009.  
2) Order No. 2/14/95-AGR(PART)/40 dated 11-02-2011.

Government is pleased to extend the deputation period of Shri Sujay Shirodkar, Assistant Agriculture Officer to Raj Bhavan, Dona Paula-Goa, for a further period of one year w.e.f. 15-12-2011 to 14-12-2012.

The deputation of Shri Sujay Shirodkar, shall be governed by standard terms and conditions of deputation as contained in the O.M. No. 13/4/74-PER dated 12-02-1999 and amended from time to time.

This issues with the concurrence of the Government.

By order and in the name of the Governor of Goa.

*S. S. P. Tendulkar*, Director & ex officio Joint Secretary (Agriculture).

Tonca, Caranzalem, 25th January, 2012.

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**Order**

No. 2/18/2005-06/D.Agro/38

Read: Order No. 2/18/2005-06/D.Agro/320 dated 07-12-20011.

Shri Nevil Alphonso, Assistant Director of Agriculture who has been repatriated from the Goa State Horticulture Corporation Ltd., is posted against the vacant post of Assistant Director of Agriculture (Hort.) in this Directorate, Tonca, Caranzalem, with effect from 04-11-2011 (a.n.) and will be paid against the Budget Head-2401—Crop Husbandry, 00—, 101—Direction & Administration, 02—Superintendent (NP), 01—Salaries.

This is issued with the approval of the Government, vide U.O. No. 47741 dated 18-11-2011.

This order is issued in supersession of the above referred order.

By order and in the name of the Governor of Goa.

*S. S. P. Tendulkar*, Director & ex officio Joint Secretary (Agriculture).

Tonca, Caranzalem, 25th January, 2012.

## Department of Co-operation

Office of the Registrar of Co-operative Societies

## Order

No. 43/2/2005/TS/RCS/7556

In supersession to the earlier Order No. 43/2/2005/TS/RCS/2458 dated 15-11-2006. In pursuance of sub-sections (1) and (2) of Section 5 of the Right to Information Act, 2005 (Central Act 22 of 2005), the following Officers have been designated as State Public Information Officer and State Assistant Public Information Officer, to discharge the functions under the said Act.

Sr. No.	Designation & Jurisdiction	Designation under Right to Information Act, 2005
1	2	3
1.	Dy. Registrar of Co-op. Societies (Admn.) (HQ), Panaji-Goa	State Public Information Officer.
2.	The Asstt. Registrar of Co-op Societies, (Headquarters), Panaji-Goa	Asstt. Public Information Officer.
3. (a)	The Asstt. Registrar of Co-op. Societies, Central Zone, Panaji	State Public Information Officer.
	(b) Co-operative Officer, CZ, Panaji Information regarding all types of Co-op. Societies of Tiswadi	Asstt. Public Information Officer.
4. (a)	The Asstt. Registrar of Co-op. Societies, North Zone, Mapusa-Goa	State Public Information Officer.
	(b) Co-operative Officer, NZ, Mapusa, Goa Information regarding all types of Co-op. Societies of Bardez, Bicholim & Pernem Talukas	Asstt. Public Information Officer.
5. (a)	The Asstt. Registrar of Co-op. Societies (Ponda Zone), Ponda-Goa	State Public Information Officer.
	(b) Co-operative Officer, PZ, Ponda, Goa Information regarding all types of Co-op. Societies of Ponda, Satari & Dharbandora Talukas	Asstt. Public Information Officer.

1	2	3
6. (a)	The Asstt. Registrar of Co-op. Societies, South Zone, Margao-Goa	State Public Information Officer.
	(b) Co-operative Officer, SZ, Margao-Goa Information regarding all types of Co-op. Societies of Salcete and Mormugao Talukas	Asstt. Public Information Officer.
7. (a)	The Asstt. Registrar of Co-op. Societies Quepem Zone, Quepem-Goa	State Public Information Officer.
	(b) Co-operative Officer, QZ, Quepem-Goa Information regarding all types of Co-op. Societies of Quepem, Sanguem and Canacona Talukas	Asstt. Public Information Officer.
8. (a)	The Asstt. Registrar of Co-op. Societies Election Cell, North Goa District, Panaji-Goa	State Public Information Officer.
	(b) Co-operative Officer, Election Cell North Goa District, Panaji-Goa Information regarding election matters of Co-operative Societies for North Goa District	Asstt. Public Information Officer.
9. (a)	The Asstt. Registrar of Co-op. Societies Election Cell, South Goa District, Margao-Goa	State Public Information Officer.
	(b) Sr. Inspector/Auditor, Election Cell, South Goa District, Margao-Goa Information regarding election matters of Co-operative Societies for South Goa District, Margao-Goa	Asstt. Public Information Officer.
10. (a)	The Asstt. Registrar of Co-op. Societies Arbitration/Execution Cases/North Goa District, Panaji-Goa	State Public Information Officer.
	(b) Sr. Inspector/Auditor, Arbitration/Execution Cases/North Goa District, Panaji-Goa. Information regarding	Asstt. Public Information Officer.

1	2	3
	ABN/EXN cases of Co-operative Societies for North Goa District	
11. (a)	The Asstt. Registrar of Co-op. Societies Arbitration/Execution Cases/South Goa District, Margao-Goa	State Public Information Officer.
(b)	Sr. Inspector/Auditor, Arbitration/Execution Cases/South Goa District, Margao-Goa. Information regarding ABN/EXN cases of Co-operative Societies for South Goa District	Asstt. Public Information Officer.

Further in exercise of the powers conferred under Section 19(1) of the said Act the Registrar of Co-op. Societies shall act as the Appellate Authority in respect of appeals against order passed by the State Public Information Officers.

*P. K. Velip Kankar*, Registrar of Co-op. Societies.

Panaji, 20th January, 2012.



### Department of Finance

Office of Commissioner of Commercial Taxes

#### Order

No. CCT/12-9/2011-12/4714

(Under sub-section (5) of Section 13 of the Goa Value Added Tax Act, 2005)

Sub: Compounding of offence relating to late filing of application for Renewal of Registration.

Whereas it is observed that there are large number of dealers who have applied for renewal of their Registration Certificates under Rule 16 beyond the time limit prescribed therein. The said applicants have committed an offence which requires compounding. As there are large number of applicants in this category from various parts of the State it would be cumbersome for them to attend this office for the purpose.

In view of above, I, the undersigned, Commissioner of Commercial Taxes in exercise of powers conferred under sub-section (5) of Section 13 of the Goa Value Added Tax Act, 2005 hereby delegate the power conferred in me under clause (A) of Section 53 only

as regards to compounding of offence relating to renewal of registration under Rule 16 of the Goa Value Added Tax Rules, 2005 to all the Appropriate Assessing Authorities having jurisdiction over the respective dealers subject to following conditions.

1. The application for renewal should have been filed within one year from the last date of validity of Registration Certificate.
2. The Assessing Authority should fix the compounding penalty @ ₹ 50/- per day of delay subject to a minimum penalty of ₹ 500/- and maximum penalty of ₹ 5,000/- for delay upto six months.
3. Applications delayed beyond six months should be charged compounding penalty of ₹ 5,000/- plus ₹ 50/- per day delay beyond six months but subject to a total maximum penalty of ₹ 10,000/-.
4. In case the net output tax paid/payable by any of the dealer is less than ₹ 50,000/- per annum then such dealer shall be charged 50 percent of the penalty as payable above.

*S. G. Korgaonkar*, Commissioner of Commercial Taxes.

Panaji, 18th January, 2012.



### Department of General Administration

#### Notification

No. 2/2/2010-GAD-III

In exercise of the powers conferred by the explanation to Section 25 of the Negotiable Instruments Act, 1881 (Act 26 of 1881) read with Section 135B of the Representation of the People Act, 1951 (Central Act 43 of 1951), the Government of Goa hereby declares Saturday, the 3rd March, 2012 (Phalguna 13, 1933) as a "Public Holiday" being the "Polling day" for the General Elections to the Goa Legislative Assembly, 2012, throughout the State of Goa. The aforesaid holiday shall be a "paid holiday"; in addition to the holidays indicated in the Notification No. 2/1/2011-GAD-H dated 03-10-2011, published in the Official Gazette, Series II No. 27 dated 07-10-2011, to the establishments as detailed below:

- i) industrial workers of the State of Goa;
- ii) daily wage workers of the Government Departments and State Government Industrial Departments;

- iii) commercial and industrial workers of private establishments in the State of Goa;
- iv) all private establishments;
- v) daily wage/casual workers employed in any business, trade, industrial undertakings or any other establishments.

By order and in the name of the Governor of Goa.

*Prabhakar V. Vaingankar*, Under Secretary (GA).

Porvorim, 31st January, 2012.

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**Department of Home**  
Home—General Division

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**Corrigendum**

No. 1/91/2010-HD(G)

Read: Government Order No. 1/91/2010-HD(G) dated 09-12-2011.

In the above referred order the words "Sudhinder Kumar Singh" may be read as "Sudhindra Kumar Singh".

By order and in the name of the Governor of Goa.

*Sneha S. Morajkar*, Under Secretary (Home).

Porvorim, 31st January, 2012.

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**Department of Labour**

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**Order**

No. 28/54/2011-LAB/76

Whereas the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. A. W. Faber Castell (India) Private Limited, Corlim, Ilhas, Goa and its Workmen, represented by the Goa Trade and Commercial Workers Union, in respect of the matter specified in the Schedule hereto (hereinafter referred to as the "said dispute");

And whereas the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (hereinafter referred to as the "said Act"), the Government of Goa hereby refers the said dispute for adjudication to the Industrial

Tribunal of Goa at Panaji-Goa, constituted under Section 7-A of the said Act.

**SCHEDULE**

"(1) Whether the action of the management of M/s. A. W. Faber Castell (India) Private Limited, Corlim, Ilhas, Goa in terminating the services of the below mentioned Workmen, with effect from 27-06-2011, under the pretext of closure is legal and justified?

Sr. No.	Names of the Workmen	Sr. No.	Names of the Workmen
1	2	1	2
1) Tukaram D. Gaonkar.	2) Ashok Kunkalkar.	10) Radu Dhulapkar.	11) Sameer Raikar.
3) Linda Pinheiro.	4) Vishnu Dhulapkar.	12) Rajani Naik.	13) Ranjeeta Jalmi.
5) Shubhangi Naik.	6) Premnath Mangadkar.	14) Suraj Naik.	15) Dashrath Naik.
7) Kavita Chodankar.	8) Pratipal Tari.	16) Sushma Parsekar.	17) Smita Naik.
9) Bhanudas Naik.	10) Radu Dhulapkar.	18) Shami Volvoikar.	19) Vishwanath Pednekar.

"(2) If not, to what relief the Workmen are entitled?"

By order and in the name of the Governor of Goa.

*Hanumant T. Toraskar*, Under Secretary (Labour).

Porvorim, 27th January, 2012.

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**Notification**

No. 28/1/2012-LAB/74

The following award passed by the Lok Adalat, at Panaji-Goa on 24-09-2011 in reference No. IT/59/02 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*Hanumant T. Toraskar*, Under Secretary (Labour).

Porvorim, 23rd January, 2012.

—  
**LOK ADALAT**

**COMPROMISE MEMORANDUM IN CASES  
U/S 10(1)(D) OF INDUSTRIAL DISPUTES  
ACT, 1947**

Type of cases:

Case No. IT-59/02 pending before Industrial Tribunal-cum-Labour Court-I, Panaji.

Shri/M/s. Shyam Shirodkar. ... Applicant

V/s

Shri/Smt. Royal Resorts &amp; ors. ... Respondent

MAY IT PLEASE YOUR HONOUR

Dispute in brief that .....  
.....

We, that is Shri/Smt. .... Applicant

Shri/Smt..... Respondent alongwith our Advocates, authorize panel/bench constituting Lok Adalat, in the above said matter that we have arrived at the compromise to settle the matter as follows:

## TERMS OF COMPROMISE

It is agreed by the Employer/Party No. II (II), to pay an amount of ₹ 75,000/- (₹ Seventy-five thousand only) to the Workman, Shri Shyam Shirodkar by D. D. within 15 day's from today. The above shall be deposited with Registrar of Court by Party No. II (II) to be handed over to Workman in view of the above terms both cases i.e. IT-59/02 and L.C.C. 42/00 stand settled.

We have arrived at the compromise terms willingly before the Lok Adalat held on ..... at ..... No coercion or force is applied. Today, though it is not working day for the Court we request the panel/bench constituting the Lok Adalat to record the compromise today only and the aforesaid matter may be marked as settled accordingly.

Dated this 24 day of September, 2011.

(Sd/-)

(Sd/-)

Signature of the  
Applicant(B. D. Shukla)  
Signature of the  
RespondentSettlement of both cases  
IT-59/00 and 42/00-LCC/00  
₹ 75,000/- only.

(Sd/-)

(Sd/-)

Signature of the  
Advocate for the  
ApplicantSignature of the  
Advocate for the  
RespondentFull and final settlement  
of ₹ 75,000/- in both cases  
No. 59/02 and LCC No. 42/00(Signature of the Authorized officer of the  
Government).

## AWARD

The matter is amicably settled as above before the Lok Adalat held on 24-9-2011 at Panaji Industrial Tribunal.

(Sd/-)

1. Signature of the Presiding Officer of Panel of Lok Adalat.

(Sd/-)

2. Signature of the Member of Lok Adalat.

(Sd/-)

3. Signature of the of Panel of Lok Adalat.

## Notification

No. 28/1/2012-LAB/72

The following award passed by the Lok Adalat, at Panaji-Goa on 26-11-2011 in reference No. IT/38/99 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*Hanumant T. Toraskar, Under Secretary (Labour).*

Porvorim, 23rd January, 2012.

## LOK ADALAT

COMPROMISE MEMORANDUM IN CASES  
U/S 33(2)(b) OF INDUSTRIAL DISPUTES  
ACT, 1947

Type of cases:

Case No. IT/38/99 pending before Industrial Tribunal-cum-Labour Court-I, Panaji.

Shri Mohan Gaonkar. ... Applicant

V/s.

Shri M/s. MRF Ltd. ... Respondent

MAY IT PLEASE YOUR HONOUR

Dispute in brief is that the Party I/Workman was terminated for unauthorised absenteeism. The termination was disputed by the Workman and hence the present reference.

We, that is Shri Rajesh Mohan Gaonkar Applicant

Shri M/s. MRF Ltd. ... Respondent alongwith our Advocates, authorize panel/bench constituting Lok Adalat, in the above said matter that we have arrived at the compromise to settle the matter as follows:

## TERMS OF COMPROMISE

The Party I/Workman through his legal representative i.e. Shri Rajesh Mohan Gaonkar and Ms. Sonal Sanjay Sawant alongwith the Party II M/s. MRF Ltd., hereby agree that in full and final settlement of the present dispute, the Party I/Workman through his representative accept a sum of ₹ 1,50,000/- which is to be paid by the Party II to the Party I.

We have arrived at the compromise terms willingly before the Lok Adalat held on 26-11-11 at 10.30 a.m. No coercion or force is applied. Today, though it is not working day for the Court we request the Panel/bench constituting the Lok Adalat to record the compromise today only and the aforesaid matter may be marked as settled accordingly. It is further agreed that arrears in terms of settlement dated 14-4-2001 between the Union and Party II amounting to approximately ₹ 47,054 will be paid to the Party I over & above the amount of ₹ 1,50,000/- herein the Party I further states that they have no further interest or claim monitory or otherwise in Ref. IT/33/97, IT/4/98, LCC/40/98, LCC/29/96 before the Industrial Tribunal.

Dated this 26th day of November, 2011.

(Sd/-)

(Sonal Sanjay Sawnt)

(Sd/-)

(Rajesh Mohna Goankar)

Signature of the  
Applicant

(Sd/-)

Signature of the  
Respondent

(Sd/-)

Signature of the  
Advocate for the  
Applicant

(Sd/-)

Signature of the  
Advocate for the  
Respondent

(Signature of the Authorized officer of the  
Government).

## AWARD

The matter is amicably settled as above before the Lok Adalat held on 26th Nov., 2011 at Panaji.

(Sd/-)

1. Signature of the Presiding Officer of Panel of  
Lok Adalat.

(Sd/-)

2. Signature of the Member of Panel of Lok  
Adalat.

(Sd/-)

3. Signature of the Member of Panel of Lok  
Adalat.

## Notification

No. 28/1/2012-LAB/73

The following award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 26-09-2011 in reference No. IT/42/2004 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of  
Goa.

*Hanumant T. Toraskar*, Under Secretary (Labour).

Porvorim, 23rd January, 2012.

IN THE INDUSTRIAL TRIBUNAL AND LABOUR  
COURT GOVERNMENT OF GOA  
AT PANAJI

(Before Smt. Anuja Prabhudessai, Hon'ble  
Presiding Officer)

Ref. No. IT/42/2004

Workmen,  
Rep. by Goa Trade & Commercial  
Workers Union,  
Velho Building, 2nd Floor,  
Panaji-Goa. ... Workmen/Party I  
V/s

M/s. Mangesh Plastics Pvt. Ltd.,  
56, Bethora Industrial Estate,  
Bethora, Ponda-Goa. ... Employer/Party II

Workman/Party I represented by Adv. Suhas Naik.  
Employer/Party II represented by Adv. G. B. Kamat.

## AWARD

(Passed on this 26th day of September, 2011)

By order dated 13-10-2004, the Government of Goa, in exercise of powers conferred under Section 10(1)(d) of the I. D. Act, has referred the following dispute to this Tribunal for adjudication.

“(1) Whether the action of the management of M/s. Mangesh Plastics Pvt. Ltd., Bethora Industrial Estate, Ponda-Goa, in refusing to concede the following Charter of Demands raised by the Goa Trade & Commercial Workers Union vide their letter dated 27-4-2004, is legal and justified?

## CHARTER OF DEMANDS

## 1. Revised Pay Scales and Flat-Rise:

That the Pay Scales be revised and brought in force with effect from 01-04-2004. It is demanded

that each Workperson be paid a Flat-Rise of ₹ 500/- over and above the existing Basic Salary as on 01-04-2004 and the total of Basic Salary Plus the Flat-Rise of ₹ 500/- be fitted into the revised Pay-Scales at the appropriate pay-scale.

## 2. Seniority Increments:

That each Workperson be eligible to Seniority Increments on the following basis. One Special Seniority Increment for every set of completed five years for example: Those completing 10 years of service will receive two Seniority Increments in the respective pay scale.

## 3. Fixed Dearness Allowance (FDA):

That each Workperson be paid an additional Fixed Dearness Allowance at the rate of ₹ 300/- per month and increase the same by ₹ 250/- for the subsequent year.

## 4. Variable Dearness Allowance (VDA):

That each Workperson be paid a Variable Dearness Allowance (VDR) at the rate of ₹ 1.25 pr. point rise over and above the AAICPI 700 points (1960=100). The VDA shall be revised every quarter.

## 5. House Rent Allowance (HRA):

That each Workperson be paid a House Rent Allowance at the rate of 25% of the basic salary each month.

## 6. Uniforms:

That each Workperson be issued two pairs of Uniforms per year and ₹ 150/- per month towards Washing Allowance.

## 7. Travelling Allowance:

That each Workperson be paid a sum of ₹ 500/- per month towards Travelling Allowance.

## 8. Leave Facilities:

The following Leave Facilities are demanded:

Privilege Leave	30 days per annum.
Casual Leave	10 days per annum.
Sick Leave	10 days per annum.
Holidays	14 days per annum.

## 9. Overtime Payment:

Whenever workers are required to work on overtime, they should be paid double the rate of gross wages.

## 10. Provident Fund:

Provident Fund be made applicable to all the workers.

11. Whenever workers are asked to work on Sundays, they should be paid at double the gross wages and given a paid compensatory off within 10 days of such work.

(2) If not, to what relief, the Workmen are entitled to?"

2. Notices were issued to both the parties, pursuance to which the Party I has filed the claim statement at Exb. 3. The Party II has filed its written statement at Exb. 4 and the rejoinder of the Party I is at Exb. 9.

3. The Party II is a Private Limited Company engaged in the business of manufacture of multi layer Plastic Film and printing thereon. The Party I/Union has claimed that the Party II has employed more than 10 Workmen and that it is making huge profits every year. The Party I/Union has further stated that the Workmen, employed by the Party II are paid very low wages. These Workmen have not been properly designated and no proper pay scale is made applicable to them. Hence, the Party I by letter dated 27-4-2006 submitted a Charter of Demands whereby, it sought enhancement and revision of existing salaries and allowance. The Party II did not concede to these demands. The conciliation ended in failure. Hence, this reference. The Party I has claimed that the demands raised by it are just, fair and proper and that the Party II is in sound financial position to meet the demands.

4. The Party II denied that the Workmen of the factory have authorized the Union to raise the dispute, or to espouse their cause. The Party II, therefore, claims that the reference itself is illegal and void and not maintainable. The Party II has also denied that it is making huge profits. The Party II has claimed that the demands raised are not fair, proper and just.

5. Based on the aforesaid pleadings, following issues were framed:

1. Whether the Party I proves that the demands raised by it are legal and justified?
2. Whether the Party I proves that the Union has locus standi to espouse the dispute of the Workmen?
3. Whether the Party II proves that order of reference is illegal, invalid and void?
4. What relief? What order?

6. It may be mentioned here that by application dated 8-9-11 (Exb. 19), Learned Advocate, Shri Suhas

Naik has submitted that he is unable to trace the Workmen despite best efforts and as such he is unable to adduce evidence on behalf of the Workmen. Hence, the evidence of Party I was closed. Consequently, the Party I has failed to prove that it has locus standi to espouse the cause of the Workmen and that the demands raised vide letter dated 27-4-2004 are legal and justified. Since the Party I has failed to discharge the initial burden, the Party I/Workmen are not entitled to any relief. Inform the Government accordingly.

Sd/-

(Anuja Prabhudessai),  
Presiding Officer,  
Industrial Tribunal &  
Labour Court.

**Notification**

No. 28/1/2012-LAB/69

The following award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 29-08-2011 in reference No. IT/129/99 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*Hanumant T. Toraskar*, Under Secretary (Labour).

Porvorim, 23rd January, 2012.

IN THE INUSTRIAL TRIBUNAL-  
-CUM-LABOUR COURT  
AT PANAJI, GOA

(Before Smt. Anuja Prabhudessai, Hon'ble  
Presiding Officer)

Ref. No. IT/129/99

Shri Gauri Kumar Tilve,  
Rep. by the General Secretary,  
Gomantak Mazdoor Sangh,  
Tisik, Ponda-Goa. ... Workman/Party I

V/s

M/s. Beiersdorf India Limited,  
Curti, Ponda, Goa. ... Employer/Party II

Workman/Party I represented by Shri P. Gaonkar.

Employer/Party II represented by Adv. Shri G. K. Sardessai.

**AWARD**

(Passed on this 29th day of August, 2011)

By order dated 26-10-1999, the Government of Goa, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for its adjudication.

"(1) Whether the action of the management of M/s. Beiersdorf India Limited, Curti, Ponda-Goa, in terminating services of Shri Gauri Kumar Tilve, with effect from 28-1-1999 is legal and justified?

(2) If not, to what relief, the Workman is entitled?"

2. On receipt of the reference, IT/129/1999 was registered. Notices were issued to both parties. The Party I has filed claim statement at Exb. 4 and the Party II has filed written statement at Exb. 5. The rejoinder of the Party I is at Exb. 6.

3. The Party I was employed with the Party II, which is engaged in manufacture of Pharmaceutical products. The Party II has issued show cause notice to the Party I for unauthorized absence and subsequently for committing misconduct under clause 27(VII) of certified standing orders of the Company issued charge-sheet dated 12-06-1998. The Party II appointed Shri K. S. Rao as an Inquiry Officer and Shri M. S. Manjunath as a management representative. The enquiry commenced on 30-6-1998 and concluded on 13-11-1998. The Inquiry Officer submitted his findings on 12-01-1999 holding the Party I guilty of charges levelled. By letter dated 15-01-1999, the Party II called upon the Party I to show cause on the proposed punishment of dismissal. The Party I submitted his reply dated 2-01-1999 wherein he prayed for leniency. The Party II did not consider the said request and terminated the services of the Party I w.e.f. 28-01-1999.

4. The Party I has claimed that in his reply dated 20-06-1998, he had submitted that he was sick and was treatment of Doctor Kapileshwarker. He had also forwarded the medical certificates issued by Dr. Kapileshwarker and by ESI doctor, despite which the Party II had ordered enquiry. The Party II has stated that in terms of Sec. 73 of Employees State Insurance Act, 1948, an Employer cannot dismiss or punish an Employee during the period of sickness. The Party I has stated that the Inquiry Officer had not conducted the enquiry properly and that he was not allowed to be represented by a defence representative. The Party I has stated that the findings of the Inquiry Officer are not based on

evidence on record and that the punishment imposed is illegal and unjustified. The Party I has therefore sought reinstatement with back wages and continuity in service.

5. The Party II has stated that the Party I had remained absent on the dates specified in the charge-sheet and that his absence was unauthorized. The Party II has stated that such unauthorized absence constitutes misconduct under 27 (VI) of the certified standing orders of the Company. The Party II has stated that a show cause notice was issued to the Party I and subsequently he was issued charge-sheet dated 12-06-1998 for committing misconduct under clause 27(VI) of the certified standing orders of the Company. The Party II has stated that the Inquiry Officer had explained the procedure of the enquiry to the Party I. The Party I was allowed to be represented by Shri P. Gaonkar. The Party I was given reasonable opportunity to defend himself despite which the Party I and his representative failed to attend the enquiry. Hence, the Inquiry Officer was forced to proceed *ex parte*. The Party II has stated that the enquiry was fair and proper and was conducted in accordance with the principles of natural justice. The Party II has stated that the findings of the Inquiry Officer are based on material on record. The Party II has stated that the past records of the Party I were not satisfactory and that he was given sufficient opportunity to improve his attendance. The Party II has stated that the gravity of misconduct justifies dismissal of the Party I from services. The Party II has sought leave to adduce further evidence in case the enquiry is set aside on any grounds.

6. Based on the aforesaid pleadings, the following issues were framed:

1. Whether the Party I proves that the domestic enquiry held against him is not fair and proper?
2. Whether the charges of misconduct levelled against the Party I are proved to the satisfaction of the Tribunal by acceptable evidence?
3. Whether the Party I proves that the action of the Party II in terminating his services with effect from 28-01-1999 is illegal and unjustified?
4. Whether the Party II proves that the Party I is gainfully employed after termination of his services?
5. Whether the Party I is entitled to any relief?
6. What Award?

7. Issue Nos. 1 and 2 were treated as preliminary issues. Both parties had adduced evidence on these issues. Findings on these issues were given vide order dated 3-6-2009, wherein enquiry conducted against the Party I was held to be fair and proper and the charges levelled against the Party I were held to be proved to the satisfaction of the Tribunal by acceptable evidence. Both parties were called upon to adduce evidence on merits. The Party I has chosen not to adduce any evidence. The Party II has examined its Assistant Manager Shri Savio Bento Antonio Coelho Do Amaral. He has produced documentary evidence from Exb. 29 to Exb. 41.

8. Lnd. Adv. Shri Gaonkar has filed written arguments, which are at Exb. 42. The Party II has not advanced any arguments. I have perused the records and considered the arguments advanced by Shri P. Gaonkar and my findings on the issue Nos. 3 and 4 are as under:

9. Issue No. 3: The records indicate that the Party I was issued charge-sheet for unauthorized absence from 5th to 7th May, 1998, 9th May, 1998, 15th May, 1998 and from 18th May till 12th June, 1998. The Party I has been held guilty of the said charge which constitutes misconduct under clause 27 (vi) of the certified standing orders of the Company. The services of the Party I have been terminated for having committed the said misconduct. The Party I has claimed that the penalty inflicted on him is harsh and disproportionate. Hence, onus was on the Party I to prove that the punishment imposed on him was disproportionate. It is however to be noted that the Party I has not adduced any evidence to prove this issue. As against this, the Party II has examined its Asstt. Manager Shri Savio Amaral. This witness has deposed that the past conduct of the Party I was not satisfactory and that the Party I was issued charge-sheet dated 24-2-1997 for unauthorized absence. He has deposed that in view of the intervention of the Union and the plea of the Party I for leniency and assurance given in the minutes dated 4-12-1997, the Party II did not pursue the said enquiry. He has produced the attendance records of the Party I for the period from 1986 to 1999 (Exb. 29 to Exb. 32). He has also produced letter dated 30-10-1989 (Exb. 33) whereby the Party I was called upon to improve his attendance. He has also produced show cause notice (Exb. 34) and the charge-sheet dated 24-2-1997 (Exb. 35) issued to the Party I for his unauthorized absence from 3-2-1997 to 19-2-1997. This witness has also produced the reply of the Party I (Exb. 36) and the minutes of understanding at Exb. 37. This witness

has stated that the Party II has considered the past records of the Party I before inflicting the penalty of dismissal. He has further deposed that the misconduct committed by the Party I is grave and the penalty imposed on him is legal and justified.

10. The evidence of this witness vis-à-vis the attendance records, the show cause notice, the charge-sheet and the minutes of understanding at Exb. 29 to Exb. 37 clearly indicate that the Party I was a habitual absentee. Shri P. Gaonkar has argued that the minutes at Exb. 37 clearly show that the past acts of unauthorized absence of the Party I have been condoned by the Employer/Party II and as such the Party I cannot be considered as a habitual absentee. He has further argued that the charge-sheet does not give details of the previous absence and for this reason also the Party I cannot be considered as a habitual absentee. He has relied upon the decisions of the Bombay High Court in Maruti Damu Patil v/s Dudhganga Vedganga Sahakari Sakhar Karkhana Ltd. and ors [1997 III L.L.J. (supp) 773], Rajendra B. Oza v/s Air India (2003 LLR 6) and the decision of the Gujurat High Court in Gujurat Insecticides Ltd. v/s Mithabhai Chhitubhai Makwana in special civil application No. 8146 of 2000, and the decision of Allahabad High Court in the case of Virendra Singh v/s Managing Director UP SRTC Luknow and Ors. (1996 LLR 340).

11. It may be mentioned here that in the case of Maruti Patil (supra) the Hon'ble Bombay High Court had approved the assessment of the Tribunal that an Employee who had worked for 20 years could not have been jettisoned for his solitary lapse. It was held that the deprivation of back wages and continuity of service was in itself a sufficiently stinging punishment and it is not necessary to deprive him of his job.

12. In the case of the Rajendra Oza (Supra), the services of the Workman were terminated for unauthorized absence of 38 days. The High Court held that the service record of the Workman was clean and that the punishment of dismissal for 38 days absence was legal victimization and shockingly disproportionate.

13. In the case of Gujurat Insecticides (Supra) the Workman was issued charge-sheet for unauthorized absence in different years. It was held that the fact that the Workman was confirmed in the year 1983 and promoted in the year 1985 indicated that his earlier lapses prior to 1986 were condoned. In view of the explanation given by the Workman to justify his absence, it was held that punishment of removal from service for the absence in the year 1986 was shockingly disproportionate. The Workman was

ordered to be reinstated without any monetary benefits.

14. In the case of Virendra Singh (supra), the Workman was absent without prior intimation. He had produced medical certificate after he had joined duty. The genuineness of medical certificate and the factum of ailment was not disbelieved by the Enquiry Officer. Under the circumstances the punishment of removal was held to be grossly disproportionate. It was further held that there could be no offence on the part of the Workman unless the ailment itself or the medical certificate was found to be untrue. Since the said aspect was not considered by the disciplinary authority. The matter was remanded with directions to complete the disciplinary proceedings in accordance with law.

15. In my considered view, the abovementioned decisions are not applicable to the facts of the present case. In the instant case, the Party I was issued charge-sheet for unauthorized absence on 5th to 7th May, 9th May and from 15th May till 12th June, 98. The Party I had not disputed that he had remained absent. The Party I had claimed that he was sick. After issuance of the charge-sheet, he had resumed duties and had submitted the medical certificates. It may be mentioned that the fact that the Party I had subsequently submitted the medical certificate does not absolve him of the charges. In the case of Delhi Transport Corporation v/s Sardar Singh 2004(7) SCC 574, the Apex Court has held that mere making of an application after or even before absence from work does not in any way assist the concerned employee. The requirement is obtaining leave in advance

16. Be that as it may, the Party II has complied with the mandatory requirement of holding a fair and proper enquiry and giving reasonable opportunity to the Party I to prove his defence. The Enquiry Officer has held the Party I guilty of charge. In holding that the Party I is guilty of 'habitual absence,' the Inquiry Officer has relied upon the explanation to clause 27 of certified standing order, which provides that any act of misconduct, which is committed on three or more occasions within a space of 12 months, shall be treated as habitual. The findings of the Enquiry Offices are already held to be based on material on record. This being the case, I am unable to accept the arguments of Shri P. Gaonkar that there was no proof of habitual absenteeism.

17. As regards the past records, the records indicate that by letter dated 30-10-1989 at Exb. 33

the Party II had called upon the Party I to improve his attendance. The Party I was also issued show cause notice dated 19-2-1997 (Exb. 34) for unauthorized absence from 3-2-1997 to 19-2-1997. Subsequently the Party I was issued a charge-sheet dated 24-2-1997 (Exb. 35) for unauthorized absence. The records indicate that by reply at Exb. 36 the Party I had prayed to drop the charge-sheet. He had stated that he was forced to remain absent because of family problems and other domestic work and had assured to be regular in future. The minutes of understanding at Exb. 37 indicates that the Party II had dropped the charge-sheet dated 24-2-1997. A perusal of the said minutes indicate that the Party I as well as the Union had approached the Party II with a request to pardon the Party I and to give him a final opportunity to improve. The minutes further indicate that the management had explained to the Party I that he had not shown any improvement though he was given several opportunities. The minutes further indicate that in view of the persistent request by the Party I and the Union and the assurance from the both, the Party II had considered the request purely on humanitarian ground and had dropped the enquiry proceedings. It is specifically recorded that the Party I and the Union had assured that the Party I would be regular in his attendance and that the proceedings were being dropped to give the last opportunity to the Party I to improve his attendance.

18. I am unable to accept the arguments of Shri P. Gaonkar that the Party II had condoned the past acts of the Party I. The minutes of understanding (Exb. 37) do not indicate that the Party II had condoned the past lapses of the Party I. On the contrary, the said minutes clearly indicate that even though the past service record of the Party I was most unsatisfactory and he was a chronic case of absenteeism, the Party I was given sufficient opportunity to improve his attendance. The records indicate that Party I had not availed this opportunity. Despite the assurance given, the Party I continued with his old habit. The Employer had given an opportunity to the Party I to tread the right path but the Employer cannot be expected or directed to take further corrective approach at the cost of his own credibility. It has to be borne in mind that while the Employer is under obligation to safeguard the interest of employees, the Workmen too have certain duties towards the organization. Regular attendance is one of such basic duties. In an era of cutthroat competition, where performance and productivity are of essence, unscheduled absenteeism not only hampers the productivity but also damages the credibility of the organization.

Under the circumstances, in the absence of allegations and proof of malafide action, victimization, or unfair labour practice, the employer certainly cannot be faulted for enforcing office discipline and promoting work ethos by taking stringent and deterrent action. Such an action is neither illegal nor unjustified. Hence, issue No. 3 is answered in the negative.

19. *Issue No. 4:* The Party II had claimed that the Party I is gainfully employed. However, the Party II has not adduced any evidence in support of this contention. Hence, this issue is answered in negative.

20. *Issue No. 5:* It is true that under Section 11A of the Industrial Disputes Act vests the Tribunal with discretion to substitute the order of discharge or dismissal into an order of reinstatement or give such other relief to the Workman, including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require. However, it is well settled that the jurisdiction vested on the Tribunal cannot be exercised arbitrarily but has to be exercised judiciously, only where the finding in a disciplinary enquiry is based on no evidence; where there has been a transgression of the principles of natural justice or where the finding is perverse in the sense that no reasonable body of persons could have arrived at such a finding. The discretion to interfere with the punishment and alter the same has to be exercised judiciously; when the punishment is either shockingly disproportionate to the gravity of misconduct and shocks the conscious of the Tribunal/Court or when there are other mitigating circumstances which require reduction of the sentence.

21. In the case of Hombe Gowda Educational Trust v/s State of Karnataka reported in 2006(1) S.C.C. 430, the Apex Court has held thus: "The recent trend in the decisions of this Court seek to strike a balance between the earlier approach to the industrial relations wherein only the interest of the Workmen was sought to be protected with the avowed object of fast industrial growth of the country. In several decisions of this Court, it has been noticed how discipline at the workplace/industrial undertakings received a setback. In view of the change in economic policy of the country, it may not now be proper to allow the employees to break the discipline with impunity. Our country is governed by Rule of law. All actions, therefore, must be taken in accordance with law. Law declared by

this Court in terms of Article 141 of the constitution, as noticed in the decisions noticed supra, categorically demonstrates that the Tribunal would not normally interfere with the quantum of punishment imposed by the employers unless an appropriate case is made out therefore. The Tribunal being inferior to this Court was bound to follow the decisions of this Court, which are applicable to the facts of the present case in question. The Tribunal can neither ignore the ratio laid down by this Court nor refuse to follow the same."

22. In the instant case, the Party I has been held guilty of habitual absence. As reiterated by the Apex Court in the case of **L&T Komatsu Ltd. v/s N. Udaykumar (2008 I CLR 978)**, habitual absenteeism is gross violation of discipline. The Apex Court has held that the Tribunal or the Labour Court is not justified in interfering with the quantum of punishment based on irrational or extraneous factors and certainly not, on what it considers a compassionate ground. Similarly, in the case of **Pandurang Vithal Kavne v/s Bharat Sanchar Nigam 2010 CLR 170**, the Division Bench of the Bombay High Court has held that unauthorized habitual absence is a misconduct, which exhibits irresponsibility and lack of interest in work and devotion to duty. In the instant case, the Party I is not only guilty of absenteeism, but he is a habitual absentee. A chronic defaulter, who has not shown any improvement despite opportunity given, cannot claim and does not deserve a further corrective approach.

23. In my considered view, the nature of the misconduct, the seriousness and the gravity of charges, and the past record of the Party I had given a reasonable cause for dismissal from service. Consequently, the penalty imposed on the Party I cannot be considered to be shockingly disproportionate. Moreover, there are no allegations of victimization or unfair labour practice and it is not the case of the Party I that the action of the Party II was actuated with ulterior motives. This being the case, in my considered view, this is not a fit case to interfere with the punishment. Hence, the Party I is not entitled for any relief. Issue No. 5 is answered accordingly.

Under the circumstances and in view of discussion supra, I pass the following order.

1. The action of the management of M/s. Beiersdorf India Limited, Curti, Ponda, Goa, in terminating services of Shri Gauri Kumar Tilve,

with effect from 28-1-1999, is held to be legal and justified.

2. The workman is not entitled for any relief.

Inform the Government accordingly.

Sd/-

(Smt. Anuja Prabhudessai),  
Presiding Officer,  
Industrial Tribunal-cum-  
-Labour Court-II.

#### Notification

No. 28/1/2012-LAB/71

The following award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 08-11-2011 in reference No. IT/58/98 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*Hanumant T. Toraskar*, Under Secretary (Labour).  
Porvorim, 23rd January, 2012.

#### IN THE INDUSTRIAL TRIBUNAL- -CUM-LABOUR COURT AT PANAJI, GOA

(Before Smt. Anuja Prabhudessai,  
Hon'ble Presiding Officer)

Ref. No. IT/58/98

Ms. Amita S. P. Sardessai,  
Rep. by General Secretary,  
Financial Institutions  
Employees Union,  
Gurudutt Bldg. 3rd Floor,  
Dr. D. V. Road,  
Panaji-Goa. ... Workman/Party I  
V/s

The Madgaon Urban Co-op.  
Bank Ltd.,  
Aquem, Alto,  
Margao-Goa. ... Employer/Party II

Workman/Party I represented by Adv. Shri G. B. Kamat.

Employer/Party II represented by Adv. Shri M. S. Bandodkar.

## AWARD

(Passed on this 8th day of November, 2011)

By order dated 24-6-1998, the Government of Goa, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this tribunal for its adjudication.

“1. Whether the demand raised by the Financial Institutions Employees Union for regularization of services on permanent basis of Ms. Amita S. P. Sardessai, Clerk, w.e.f. 20-5-1985, by the management of The Madgaon Urban Co-op. Bank Ltd., Margao, is legal and justified?

2. If not, to what relief the Workman is entitled?”

2. On receipt of the reference, IT/58/98 was registered. Notices were issued to the parties, pursuant to which the Party I has filed claim statement at Exb. 4 and the Party II has filed the written statement at Exb. 5.

3. The case of the Party I/Workman, in brief is that she had joined the services of the opponent bank on 20-5-1985 and that she was in continuous service till 5-07-1986, on which date her services came to be terminated. Aggrieved by the said termination, the Party I/Workman had raised a dispute being IT/9/89. The said reference was decided by award dated 23-11-1992 wherein the termination was held to be in contravention with the Section 25F of the Act and thus illegal and unjustified. The Party I was ordered to be reinstated with continuity in service and full back wages. The Party II challenged the said award in Writ Petition 29/93. On 4-3-1993, at the time of admission of Writ Petition, the Hon'ble High Court granted interim stay only in respect of recovery of back wages. The Hon'ble High Court ordered the employment of the Party I/Workman to start from 16-3-1993. In terms of the said order the Party I/Workman was employed as temporary clerk w.e.f. 16-3-1993.

4. The Party I has claimed that she had joined the services at Panjim Branch of Party II on 16-3-1993. The Party I has claimed that she has been doing various works which are of permanent nature and identical in nature to the work done by the regular permanent employees despite which she was paid salary @ ₹ 1,000/- per month. By letter dated 31-5-1993, the Financial Institutions Employees Union, hereinafter referred to as the Union, raised grievances about the status of the

Party I/Workman and the facilities granted to her. The Union called upon the management to place the Party I/Workman as senior clerk, in an appropriate grade and give all benefits granted to the regular employees. By letter dated 5-7-1993 the Party II refused to accede to any of the demands on the ground that the Party I/Workman was reinstated in the post of temporary clerk which was held by her as on 5-7-1986 and that therefore she was paid salary of Rs. 1,000/- as paid to other temporary employees.

5. The Union has claimed that the Workman has been working with the Party II since 1985 against a permanent post and is rendering services and performing duties, functions and responsibilities as being rendered and performed by regular permanent employees and that there is no reason to discriminate between the Workman and other regular permanent employees. It is further alleged that the act of the Party II in designating the Party I/Workman as a 'temporary clerk' is in clear breach of clause 15 (c) of Standard Service Rules. It is alleged that the Party I/Workman has been designated as temporary clerk with malicious intentions and in vindictive manner just to deprive her of the status and privileges of permanent Workman. The Union has claimed that the acts of the Party II amount to unfair labour practice.

6. The Union has therefore claimed that the Workman is entitled for regularization of services on permanent basis w.e.f. 20-5-1985 till 5-7-1986 as a clerk and thereafter from 21-1-1988 as a senior clerk with all consequential benefits.

7. The Party II has challenged the maintainability of the reference on the ground of being premature. The Party II has further stated that the Party I/Workman is not entitled for any relief in view of judgment dated 4-3-1993 in Writ Petition 29/98. It is stated that granting of permanent status to any Employee is a sole discretion of the Party II and it depends upon several factors including sanction/approval from the Registrar of Co-op. Societies.

The Party II has further stated that in order to acquire the Workman is required to follow the procedure laid down under the rules and regulations which includes having required qualifications, appearing for written test, personal interview etc. The Party II has stated the Workman had not complied with any of these requisites and as such cannot claim permanent status. The Party II has further stated that the Union has no authority to represent the Workman and

the demands raised by the Union are not maintainable.

8. The Party II has denied that the Workman is doing the work which is of permanent nature or that the work done by her is identical to the work done by other regular permanent employees. The Party II has further stated that temporary employees are appointed due to temporary increase in work and they are paid salaries/wages as applicable. The Party II has stated that in compliance with the order of the High Court in Writ Petition 29/96, the Party I/Workman was Employed as temporary clerk with effect from 16-3-1993 and she was given salary and benefits as applicable to the post of temporary clerks. The Party II has denied having indulged in unfair labour practice. The Party II has stated that the Party I was working on temporary basis and that she is neither entitled for the benefits of regular employees nor entitled to be paid as a senior clerk. The Party II has further stated that since the Party I cannot be give permanent status as she has not complied with all the requisites such as written test, oral interview etc. The Party II therefore claims that the demand of the Party I is illegal and unjustified.

9. Based on the aforesaid pleadings following issues were framed:

1. Whether the Party I/Union proves that it has the authority to represent the Workman Miss Amita S. P. Sardessai?
2. Whether the Party I/Union proves that the Workman, Miss Amita S. P. Sardessai was employed since 20-5-1985 against permanent post and she has been doing work and performing duties, functions and responsibilities performed by a regular permanent employee?
3. Whether the Party I/Union proves that the Workman Miss Amita Sardessai acquired the status of a permanent Employee as defined under clause 15 (a) of the Service Rules of the Party II?
4. Whether the Party I/Union proves that its demand for regularization of services of the Workman Miss Amita Sardessai, clerk, with effect from 20-5-1985 by the Party II is legal and justified?
5. Whether the Party II proves that the reference is not maintainable for the reasons stated in para 1 (a) to 1 (d) of the written statement?

6. Whether the Party I/Union is entitled to any relief?

7. What Award?

10. The Party I/Workman has examined herself besides examining Shri Subhash Naik George, the General Secretary of the Union. The Party II has examined Rajan Keni, the General Manager of the Party II Bank. Lnd. Adv. Shri G. B. Kamat has argued on behalf of the Party I and Lnd. Adv. Shri M. S. Bandodkar has argued on behalf of the Party II. I have perused the records and considered the arguments advanced by the respective parties and my findings on the issues are as under.

11. *Issue No. 1:* In the instant case the dispute was raised by the Union for regularization of services of the Party/I Workman on permanent basis. The Party II had claimed that the Union was not authorized to raise the dispute. Hence, onus was cast upon the Party I to prove that the Union had authority to represent the Workman.

12. Lnd. Adv. Shri G. B. Kamat has argued that the evidence adduce by the Party I amply proves that the Party I/Workman is a member of the Union and that the other Union functioning in the establishment of the Party II Bank was not admitting the Party I/Workman as its member. Hence, the Union, which normally takes up the matters of temporary and daily wage employees, had enrolled the Party I/Workman as its member and thereafter raised the dispute on behalf of the Party I/Workman. Lnd. Adv. Shri Kamat has argued that the objections raised by the Party II relate to internal management of the Union and are purely technical in nature. He has further argued that similar objections were raised before the Hon'ble High Court in the case of ANZ Grindlays Bank v/s. General Secretary, Grindlays Bank Employees Union, Mumbai, and ors. (2001 Lab I.C. 3563). Lnd. Adv. Shri G. B. Kamat claims that in the light of the principles laid down in the aforesaid decision; espousal of the dispute by the Union is valid and justified.

13. Lnd. Adv. Shri Bandodkar has argued that Shri Subhash Naik George has admitted that he is the General Secretary of the Union since January, 1998 and that prior to January, 1998 he was not even an office bearer of the said Union. Lnd. Adv. Shri Bandodkar has argued that the dispute was raised in August, 1997 on which date Subhash Naik George was not even an office bearer of the Union and therefore was not competent to raise

the dispute. Lnd. Adv. Shri Bandodkar has further argued that apart from the Party I/Workman no other Employee of the Party II bank was the member of Party I/Union and therefore the Union has no authority to raise the dispute. He has relied upon the decisions of the Apex Court in the case of Bombay Union of working journalist v/s The Hindu, Bombay ( 1963-3 SCR 893) and the case of Workmen of Indian Express Newspaper Pvt. Ltd. v/s The Management of Indian Express Pvt. Ltd. (1970) II LLJ 132.

14. At the outset, it may be mentioned that the decision in the case of ANZ Grindlays Bank (supra) is not applicable in the present case as in the said case the dispute was referred under Section 2A of the Industrial Disputes Act. It was sought to argue that since the Workman was not a member of the Union and the dispute being an individual dispute referred under Section 2A of the Act, the Union could not have espoused the cause and could not have filed the statement of claim on behalf of the concerned Workman. in this context the Hon'ble High Court has held that "The Union is a complete shelter and home for retreat for every Workman as and when he finds himself in difficulty. Very often the Employees or Workmen do not become members of any Union for their own reasons selfish or otherwise. It is possible that the present Workman being only a temporary Workman preferred to remain away from the Union but when he found himself in difficulty he knocked the doors of the Union which rightly gave shelter to him and responded to his call for help. The Union did not, rightly, adopt a narrow and sectarian attitude of not helping him on the ground that he was not the Union-member. The Union has rightly extended its help and has espoused his cause for justice. There is no bar or prohibition for the respondent Union functioning in the petitioners Company, or for that matter for any Union functioning in any undertaking to espouse cause of any Workman who might not have been enrolled as member in the past. The Membership of a Union is not a condition precedent to espouse an industrial dispute of a Workman. The Union can espouse cause of even a non-member, who approaches them for help. The Union must represent a case of Workmen or Employees like a representative Union under the Bombay Industrial Relations Act, 1946, whether they are members or not. It is always in the interest of Industrial relations that even an individual Workman or an Employee is represented by a Union and that the cause is espoused by the Union and if the Union acts in the interest of the Workmen..."

15. In the instant case, the dispute relates to the demand for regularization of services of the Party I/Workman. This dispute is not covered by Section 2-A of the Industrial Disputes Act. The dispute being an individual dispute, it was necessarily required to be espoused by a number of employees or by the trade Union of the establishment so as to give the dispute a character of industrial dispute within the meaning of Section 2(k) of the Act. It is pertinent to note that in the instant case, the dispute was not espoused by a number of employees of Party II bank or by Margao Urban Co-operative Bank Employees Union, which is a Union of the employees of Party II bank, but was espoused by a general Union. The question that arises is whether the Union, which is a general Union, could espouse the dispute of the Party I/Workman.

16. It may be mentioned that in the case of Bombay Union of Journalist (Supra) the Apex Court had held that the members of a Union who are not the Workmen of the Employer against whom the dispute is sought to be raised cannot by their support convert an individual dispute into an Industrial Dispute. It was held that persons who seek to support the cause must themselves be directly and substantially interested in the dispute and persons who are not the Employee of the same employer cannot be regarded as so interested. It was further held that the dispute, in the said case, being *prima facie* an individual dispute, in order that it may become an Industrial Dispute, it had to be established that it had been taken up by the Union of the employees or by an appreciable number employees of Hindu, Bombay.

17. The above decision was distinguished in the case of Workman of M/s. Dharam Pal Prem Chand (Saugandhi) v/s M/s. Dharam Pal Prem Chand (Saugandhi) (AIR 1966 SC 182). In a subsequent decision; in the case of Jadhav J. H. v/s Forbes Gokak Ltd. (AIR 2005 SC 998), the Apex Court on referring to the decision in the case of Dharam Pal (Supra) has held that "The definition of "Industrial Dispute" in Section 2(k) of the Act shows that an Industrial Dispute means any dispute or difference between an Employer and Employee or between Employers and Workmen, or between Workmen and Workmen, which is connected with the employment or non-employment or the terms of the employment or within the condition of labour, of any person. The definition has been the subject matter of several decisions of this Court and the law is well settled. The *locus classicus* is the decision in Workmen of M/s. Dharampal Premchand (Saugandhi) v. M/s. Dharampal Premchand

(Saughandhi) 1965 (3) SCR 394 where it was held that for the purposes of Section 2(k) it must be shown that (1) the dispute is connected with the employment or non-employment of a Workman, (2) the dispute between a single Workman and his Employer was sponsored or espoused by the Union of Workmen or by a number of Workmen. The phrase "the Union" merely indicates the Union to which the Employee belongs even though it was be a Union of a minority of the Workmen, (3) the establishment had no Union on its own and some of the employees had joined the Union of another establishment belonging to the same industry. In such a case it would be open to that Union to take up the cause of the Workmen if it is sufficiently representative of those Workmen, despite the fact that such Union was not exclusively of the Workmen working in the establishment concerned. An illustration of what had been anticipated in Dharam Pal's case is to be found in the Workmen of Indian Express Newspaper (Pvt.) Ltd. v. Management of Indian Express Newspaper Pvt. Ltd., AIR 1970 SC 737 where an 'outside' Union was held to be sufficiently representative to espouse the cause."

18. It is therefore evident that an individual dispute can become an industrial dispute if it is espoused by a number of Workmen or by the Union of the establishment. In the absence of a Union of its own, an outside Union can espouse the dispute provided an appreciable number of employees of the establishment are the members of the Union of another establishment belonging to the same industry. Hence, as it has been held by the Apex Court in the case of Dharam Pal, in order to decide whether the dispute which is referred is an industrial dispute, it is necessary to ascertain whether the Union which has sponsored the case of the Party I/Workman can claim a representative character in such a way that its support to the cause would make the dispute an 'industrial dispute'.

19. Reverting to the facts of the present case, the witness Shri Subhash Naik George, the General Secretary of the Party I/Union has deposed that the Party I/Union is registered under the Trade Unions Act. He has deposed that as per the constitution of the Party I/Union, the employees of various financial institutions can become members of the said Union. He has deposed that the Party I/Union normally takes up the matters of the temporary and daily wage employees. He has deposed that the other Unions do not support the cause of temporary and daily wage employees and that they take up

matters mostly of permanent employees. He has deposed that the Party I/Workman was working for Party II continuously for several years despite which she was not given status of a permanent employee. He has deposed that the Party I/Workman had become the member of the said Union on 17-6-1997. He has produced an application dated 17-6-1997 (Exb. W-1) whereby the Party I/Workman had applied for enrolling her as a member of the Party I/Union. He has further deposed that there was another Union functioning in the establishment of the Party II and the said Union was not admitting the Party I/Workman as a member. In his cross-examination, he has stated that over 100 Employees including permanent and temporary employees, are employed in Party II Bank. He has admitted that besides the Party I/Workman no other Employee of the Party II Bank is a member of the Party I/Union.

20. The Party I/Workman Ms. Amita Sardessai, has deposed that she is a member of the Party I/Union since July, 1997. She has produced receipts (Exb. W-12), issued by the Party I/Union for having received the membership fees for the year 1997 till 2004. In her cross examination this witness has stated that the Party II Bank has about eight branches and about 120 Employees are employed with Party II Bank. She has stated that there is another Union of the employees of the Party II Bank viz Madgaon Urban Co-op. Bank Employees Union. She has deposed that when the dispute was raised she was the only employee of Party II Bank who was a member of Party I/Union. She has denied the suggestion that the Party I/Union has no authority to raise a dispute on her behalf.

21. The evidence of Shri Subhash George Naik and Ms. Amita Sardessai clearly indicates that there are over 100 Employees employed with the Party II Bank. The Employees of the Party II Bank have their own Union called Madgaon Urban Co-op. Bank Employees Union. However neither the employees of the Party II Bank nor the Union of the employees of the Party II Bank had espoused the cause of the Party I/Workman. Though Shri Subhash Naik George has stated that the said Union was not admitting the Party I/Workman as its member, the evidence of the Party I/Workman does not indicate that she had sought to become a member of the said Union. Her evidence also does not indicate that the Union of the Party II bank had refused to admit her as a member or that the said union had refused to espouse her cause. It is to be noted that the evidence on record clearly indicates that apart from the Party I/

/Workman, no other employee of the Party II Bank, either permanent or temporary, was a member of the Party I/Union. Moreover, none of these employees had supported the espousal of the dispute by the Party I/Union. This being the case, it cannot be said that the Party I/Union had a representative character qua the employees working in the Party II Bank to transform the individual dispute into an industrial dispute.

22. It is also pertinent to note that the Party I/Workman was enrolled as a member as on 17-6-1997. By letter dated 9-7-1997 (Exb. W-2) the witness Shri Subhash George Naik, as a general secretary of the Union, had called upon the management of the Party II bank to regularize services of the Party I/Workman and thereafter raised the dispute by letter dated 5-8-1997 (Exb. W-3). It is to be noted that in his cross-examination, the witness Shri Subhash George Naik has stated that he was elected as a general secretary of the Union in the elections held in the second week of January, 1998. He has stated that prior to January, 1998 he was not an office member of the Union. The aforesaid statement clearly indicates that though the witness had raised the dispute as a general secretary of the Union, he was not even an office member of the Union as on the date the dispute was raised.

23. In the case of Management of Hotel Samrat v/s Government of NCT & ors. (2007-II-LLJ 950), wherein the Delhi High Court while considering whether mere lending of name of the Union by the Union Secretary while raising the conciliation proceeding or for issuing notice amounts to 'espousal' of cause, has held that "Union is a representative body of the Workmen. The cause of any Workman can be espoused collectively by the Executive Body of the Union by taking a decision in this respect. This decision may not be taken in a formal manner but can be taken in an informal manner. But it has to be collective decision of the executive body of the Union. An individual member of the Executive Body cannot take the character of the entire Union and cannot bind the Union. Merely because the Union secretary met the management and requested for giving a regular appointment letter would not amount to espousal of the cause."

24. In the instant case, as stated earlier the evidence on record indicates that Shri Subhash Naik was not even an officer bearer of the Union. The Party I has not adduced any evidence to prove that a considerable number of Workmen or

the office bearers of the Union had resolved to espouse the cause of the Workman or that they had authorized Shri Subhash George Naik to raise the dispute. In the absence of such evidence, it cannot be said that the dispute was supported by the Union. The inevitable conclusion is that Shri Subhash George Naik had no authority to raise the dispute and that there was no valid espousal of the dispute to convert an individual dispute into an industrial dispute. Issue No. 1 is therefore answered in the negative.

25. In the case of Management of Hotel Samrat (supra) it is held that "...the Tribunal has jurisdiction to adjudicate only an industrial dispute. The Tribunal came to conclusion that the cause of the Workman was not espoused. Once the Tribunal decided the issue of espousal against the Workman the Tribunal lost its jurisdiction to adjudicate the dispute since no Industrial Dispute existed. However, the Tribunal considered that it was a mere technicality. I consider that the entire jurisprudence of Industrial Disputes Act, is in respect of resolution of collective dispute of the Workmen. It is not a mere technicality. An individual dispute unless covered under Section 2A cannot be raised under Industrial Disputes Act." In the instant case, the dispute is an individual dispute and in the absence of valid espousal, the individual dispute is not deemed to be an industrial dispute. Consequently, the Tribunal has no jurisdiction to adjudicate the dispute and hence no findings are given on the other issues.

Under the circumstances and in view of discussion supra, I pass the following order.

#### ORDER

It is held that the dispute referred to this Tribunal vide order dated 24-6-1998 is not an Industrial Dispute and as such this Tribunal has no jurisdiction to adjudicate upon the same.

Inform the Government accordingly.

(A. Prabhudessai),  
Presiding Officer,  
Industrial Tribunal-cum-  
-Labour Court-I.

#### Notification

No. 28/1/2012-LAB/70

The following award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 14-11-2011 in reference No. IT/81/2002 is hereby

published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*Hanumant T. Toraskar, Under Secretary (Labour).*  
Porvorim, 23rd January, 2012.

IN THE INDUSTRIAL TRIBUNAL  
AND LABOUR COURT  
GOVERNMENT OF GOA  
AT PANAJI

(Before Smt. Anuja Prabhudessai,  
Hon'ble Presiding Officer)

Ref. No. IT/81/2002

Workmen,  
Rep. by Goa Trade &  
Commercial Workers Union,  
Velho Building, 2nd Floor,  
Panaji-Goa. ... Workmen/Party I

V/s

M/s. Goa Coaters,  
Bethora Industrial Estate,  
Bethora, Ponda-Goa. ... Employer/Party II

Workmen/Party I represented by Adv. Shri Suhas Naik.

Employer/Party II represented by Adv. Shri A. Kundaikar.

AWARD

(Passed on this 14th day of November, 2011)

By order dated 4-12-2002, the Government of Goa, in exercise of powers conferred under Section 10(1)(d) of the I. D. Act, has referred the following dispute to this Tribunal for adjudication.

"(1) Whether the action of the management of M/s. Goa Coaters, Bethora, Ponda-Goa, in terminating the services of Shri Rajesh Waglekar, Kum. Reshma Gawde, Kum. Shobha Gaonkar and Kum. Prema Gawade, with effect from 11-09-2001, is legal and justified?  
(2) If not, what relief the workpersons are entitled to?"

2. Notices were issued to both parties pursuant to which the Party I has filed the claim statement at Exb. 4. The Party II has filed its written statement at Exb. 5 and the rejoinder is at Exb. 6.

3. The Party I/Union has claimed that the workmen employed in the Party II factory have unionized themselves under its membership and since unionization the Workmen are represented by the Party I/Union. The Party I has espoused the cause of the Workmen before various authorities and has even signed wage settlement with Party II.

4. The Party I claims that on 11-9-2001, the Party II terminated the services of the four Workmen named in the reference without assigning any justifiable reasons. Out of the said four Workmen, only two Workmen, namely Shobha Gaonkar and Reshma Gaonkar were issued termination letters. The Party I has claimed that it was stated in the termination letters that their legal dues were enclosed however no such dues were enclosed nor paid. The Party I claims that the termination is in contravention of Sec. 25(F), 25(G) and 25(H) of the I. D. Act and as such the termination is arbitrary, illegal, unjustified and bad in law.

5. The Party II has claimed that the Workmen are not the members of the Party I/Union and that the president of the Union has no power and authority to sign and verify the claim statement. The Party II has further stated that the dispute referred by the Government is not an industrial dispute within the meaning of Sec. 2(K) of the Act. That the Government has referred a non-existing dispute and the order of reference is contrary to Sec. 10 and 12 (1) of the Act. The Party II therefore claims that the Tribunal has no jurisdiction to adjudicate upon the dispute.

6. On merits, the Party II has claimed that it is a small-scale industry catering to powder coating such as Epoxy Powder Liquid Coating and Metal Treatment. The Party II has stated that it is only an ancillary unit and that coating job is secured mainly through Crompton, which supplies material, as well as powder. The Party II has claimed that it has to discharge functions as per the norms laid down by the said company.

7. The Party II claimed that the service record of the four Workmen was not clean. The Party II has claimed these Workmen had not shown any improvement despite being warned. The Party II has claimed that it had suffered loss due to the conduct of these four Workmen, as many a times they would not accept the material brought to the unit and give false information to the customers. The Party II has further stated that the employment of these Workmen was seasonal, as per the exigencies of work.

8. The Party II has claimed that due to the low production and sulk in business, the business was badly affected. There was no sufficient work for the Workmen despite which it had paid wages to the Workmen after obtaining loan from the banks, well wishers etc. However, as the situation aggravated, continuance of the unit became a liability. Hence, the Party II called for a meeting and explained the position to the Workmen and thereupon, the Workmen suggested that services of some of the employees be retrenched on the basis of last come first go, besides the four workmen involved in the reference volunteered to resign stating that they had secured better jobs. Since these Workmen regressed from their commitment, the Party II was compelled to terminate their services. The Party II has stated that Shobha Gaonkar and Reshma Gawde accepted the termination order while Prema Gawde and Rajesh Waghekar refused to accept the same. The Party II has stated that these Workmen have been paid the amount due. The Party II has denied having contravened any provision of I. D. Act. The Party II has also denied that the termination is illegal or bad.

9. Based on the aforesaid pleadings, following issues were framed:

1. Whether the Party I/Union proves that its president has the authority to sign and verify the claim statement and that the Workmen are its members?
2. Whether the Party I/Union proves that the termination of the services of the Workmen by the Party II is in contravention of the provisions of Sec. 25-F, 25-G and 25-H of the I. D. Act, 1947?
3. Whether the Party I/Union proves that the action of the Party II in terminating the services of the Workmen w. e. f. 11-9-2001 is illegal and unjustified?
4. Whether the Party II proves that the reference is not maintainable for the reasons stated in para 3 of the written statement?
5. Whether the Workmen are entitled to any relief?
6. What Award?

10. Lnd. Advocate Shri Suhas Naik has argued on behalf of the Party I. He has argued that the resolution dated 18-1-1998 and the letter dated 23-1-1998 at Exb. W-1 colly clearly proves that the

employees of Party II Company are the members of the Party I/Union. He has further argued that the evidence of Shri R. D. Mangueshkar vis-à-vis the wage settlement at Exb. W-2 proves that the Union had raised a charter of demand on behalf of Workmen of Party II Company and that Party II had negotiated and entered into a settlement with the Party I/Union. Lnd. Adv. Shri S. Naik therefore claims that the challenge to the locus standi of the Union is devoid of merits. Lnd. Adv. Shri S. Naik has further argued that the evidence of Rajesh Waglekar and Reshma Gaude proves that the services of the four Workmen named in the reference were terminated and that they were not paid legal dues. Lnd. Adv. Shri S. Naik has argued that the Party II has adopted pick and choose method and that the termination of the four Workmen is in contravention of Section 25 F, 25 G and 25 H of the Industrial Disputes Act. He therefore claims that the Workmen named in the reference are entitled for reinstatement with all consequential benefits.

11. Lnd. Advocate Shri Kundaikar has argued on behalf of the Party II. He has argued that the dispute is raised by the general Union and not by the Workmen themselves. He has further argued that the statement of claim is signed by Shri Christopher Fonseca who is a President of the General Union and not of the Union of the establishment. He has argued that the Party I has not produced the membership receipts and has thereby failed to prove that the Workmen of Party II are the members of Party I/Union. He therefore claims that the Party I Union has no locus standi to espouse the cause of employees of Party II Company. He has relied upon the decision of the Apex Court in the case of Bombay Union of Journalist and ors. v/s. The 'Hindu' Bombay and anr. reported in 1961 STPL (LE) 2020 SC. He has further argued that the dispute raised was in respect of refusal of employment. However, the dispute referred is in respect of termination of services. Lnd. Adv. Shri Kundaikar therefore claims that the dispute referred to the Tribunal is not an Industrial Dispute. He has further argued that the services of the four Workmen were retrenched and that the Workmen named in the reference were offered retrenchment compensation which they have refused to accept. Lnd. Adv. Shri Kundaikar has further argued that the reference is bad in law and not maintainable.

I have perused the records and considered the arguments advanced by the respective advocates and my findings on the aforesaid issues are as under:

12. **Issue No. 1:** It is not in dispute that the four Workmen namely Shobha Gaonkar, Reshma Gawde, Prema Gawde and Rajesh Waglekar were employed with the Party II and that their services were terminated w.e.f. 11-9-2001 pursuant to which the Union vide letter dated 12-9-01 (Exb. 20) raised an Industrial Dispute. The conciliation proceedings ended in failure and on receipt of the report (Exb. 19) the dispute has been referred to this Tribunal. On receipt of the notice, the Party I/Union has filed the claim statement, which has been signed and verified by the President. The Party II has challenged the authority of the Union/President to represent the Workmen on the ground that the Workmen are not the members of the Union. Hence, burden was cast on the Party I/Union to prove its authority to espouse the cause of the Union. In discharge of this burden, the Union has examined its General Secretary Shri R. D. Mangueshkar. This witness has deposed that vide resolution dated 18-1-98 (Exb. W-1) the workers employed with Party II factory, including the four Workmen named in the reference, had joined the Party I/Union. This witness has deposed that vide letter dated 23-1-98 (Exb. W-1 colly) the Party II as well as the Registrar of Trade Union was informed about the unionization of the Workmen. He has deposed that upon unionization, the Union has espoused the cause of the Workmen before several authorities. He has further deposed that Union had also entered into a wage settlement dated 18-4-01 (Exb. W-2) on behalf of the Workmen. Shri Prakash Amonkar had signed the said settlement on behalf of the Workmen, whereas, on behalf of the Workmen, the settlement was signed by Shri Christopher Fonseca and Shri Suhas Naik, the President and the Secretary of the Union. The Workmen Rajesh Waglekar and Reshma Gawde have also deposed that they are the members of Party I/Union. They have deposed that the Party I/Union had entered into a wage settlement (Exb. W-2).

12. The aforesaid oral evidence via-a-vis the resolution and letter dated 18-1-98 at Exb. W-1 colly clearly indicates that the Workmen of Party II Company including the Workmen named in the reference had enrolled themselves as members of the Party I/Union and the copy of this resolution was forwarded to the Company. It is to be noted that upon unionization, the Party I/Union

had not only espoused the cause of the Workmen but had entered into a settlement at Exb. W-2 which was signed by Christopher Fonseca and Suhas Naik, as the President and the Secretary of the Union. The fact that the Party II had negotiated and entered into a wage settlement (Exb. W-2), with the Party I/Union clearly indicates that the Party II was aware about unionization and that it had neither disputed the authority of the President and the Secretary to sign the settlement nor challenged the locus standi of the Union to espouse the cause of the Workmen. This being the case, the challenge to locus standi of the Union is devoid of merits. It may be mentioned that the judgment in the case of Bombay Union of journalist v/s Hindu, Bombay (supra) representing the members of the Union were not the workers of the employers against whom the dispute was sought to be raised. The said members of the Union had by supporting the dispute sought to convert an individual dispute into an industrial dispute. Under these circumstances, it was held that persons who support the cause must be directly and substantially interested in the dispute. It was further held that the persons who are not employees of the same employer cannot be regarded as so interested, that by their support they may convert an individual dispute in industrial dispute. The aforesaid judgment is not applicable to the facts of the present case as the facts of the present case are totally distinguishable. In the instant case, the resolution at Exb. W-1 amply proves that the workers of the Party II, including the workers named in the reference are the members of the Party I/Union. The Party I/Union represents almost all the Workmen of the Party II Company and is therefore, competent to espouse the cause of the Workmen. Hence, Issue No. 1 is answered in the affirmative.

13. **Issue Nos. 2 and 3:** It is not in dispute that the Workmen named in the reference were the employees of the Party II Company and that these Workmen were in continuous service within the meaning of Sec. 25-B of the Act. It is also not in dispute that the services of these Workmen have been terminated w.e.f. 11-9-01. The Workmen, Reshma Gawade and Shobha Gaonkar were issued termination letters at Exb. 17 & 18 colly. The evidence of R. D. Mangueshkar, Rajesh Waglekar and Reshma Gaude indicates that no such termination letters were issued to Rajesh Waglekar and Prema Gaude and that they were orally informed that their services stood terminated w.e.f. 11-9-01. It may be mentioned here that though the Party II has claimed that these two Workmen had refused to accept the termination letters, the

Party II has not adduced any evidence to substantiate the said claim. In the absence of any such evidence, the only inference that can be drawn is that the services of the workmen Shobha Gawde and Reshma Gawde was terminated w.e.f. 11-9-01 vide termination orders at Exb. 17 and 18 colly whereas the services of Rajesh Waglekar and Prema Gawde were orally terminated w.e.f. 11-9-01.

14. A perusal of termination letters at Exb. 17 and 18 colly indicates that the services of Shobha Gawde and Reshma Gawde were terminated due to low production and sulk in business. The pleadings at para 12 of the written statement also indicates that the services of the Workmen were terminated due to low production and sulk in business. Thus, it is evident that the services of the said Workmen were retrenched within the meaning of Sec. 2(oo) of the Act.

15. The next question, which falls for my consideration, is whether the Party II has complied with the provisions of Sec. 25-F of the Act. Sec. 25-F ordains that no Workman employed in any industry who has been in continuous service for not less than one year shall be retrenched by the employer until (a) the Workman has been given one month's notice in writing indicating the reasons for retrenchment or the Workman has been paid, lieu of such notice, wages for the notice period; (b) the workmen has been paid at the time of retrenchment compensation which shall be equivalent to fifteen days average pay for every complete year of continuous service or any part thereof in excess of six months.

16. In this regard, Shri Mangueshkar, the Secretary of the Union as well as the Workmen, Shri Rajesh Waglekar and Reshma Gaude have deposed that though the termination letters at Exb. 17 and 18 colly state that the legal dues were enclosed, no such dues were in fact enclosed or paid to the Workmen who were issued termination letters or to those two Workmen whose services were orally terminated. The Workman Rajesh Waglekar has categorically stated that he was neither issued termination letter nor paid retrenchment compensation. Similarly, the Workman Reshma Gaude has deposed that they were not paid any compensation/dues as stated in the termination letter. She has deposed that no Demand Draft was enclosed to the termination letter. It may be mentioned that apart from a bare suggestion that the Workmen were paid the dues, the Party II has not adduced any evidence to prove

that the retrenchment compensation or the dues as stated in the termination letters at Exb. 17 and 18 colly was paid to Reshma Gaude and Shobha Gaonkar. The Party II has not even specified whether the said amount was paid in cash, by cheque or by Demand Draft. The Party II has also not adduced any evidence to prove that Rajesh Waglekar and Prema Gaude had refused to accept the termination orders. The Party II has not placed on record termination orders issued to these two Workmen. The Party II has also not adduced any evidence to prove that these two Workmen were offered such dues and that they had refused to accept the termination letters and the dues.

17. It is also pertinent to note that the Union had raised the dispute vide letter dated 12-9-2001 at Exb. 20. In this dispute, which was raised on the very next date of the termination, the Union had stated that the Workmen were not paid legal dues. This fact clearly indicates that the grievance is genuine and not by way of an after thought. It is to be noted that the said letter was sent to the Proprietor of the Party II despite which the Party II did not controvert the statement made by the Union. The Party II also chose not to participate in the conciliation proceedings. Besides, as stated earlier, the Party II has not adduced any evidence before this Tribunal to prove that it had paid or offered the dues. All these factors lead to an inference that the Party II has not complied with the mandatory requirements of retrenchment. Needless to say that, for retrenchment to be valid, it is incumbent upon the employer to fulfill the requirements of clauses (a) and (b) of Sec. 25-F of the Act. Non-compliance of these mandatory requirements renders the retrenchments illegal.

18. The Party I has also alleged contravention of Sec. 25-G and 25-H of the Act. Section 25-G gives legislative recognition to the principle of last come first go. Hence, the onus was on the Party I to prove that the Party II had departed from this rule. It is however to be noted that though the Party I has alleged contravention of Sec. 25-G, the Party I has not specified the names of the junior Workmen who were retained. Similarly, there is no evidence to prove that the employer has employed any new employees in place of retrenched Workmen. This being the case, the Party I has failed to prove that the Party II has contravened Sec. 25-G and 25-H of the Act. Nevertheless the Party I has proved contravention of Section 25-F of the Act and this renders the retrenchment illegal. Hence, issue No. 2 is answered partly in the affirmative. Issue No. 3 is answered in the affirmative.

18. *Issue No. 4:* The Party II had claimed that the dispute referred to the tribunal is not an industrial dispute within the meaning of the Act. That the opinion of the Government is not based on the relevant grounds germane to the matter and that the Tribunal has no jurisdiction to adjudicate upon the dispute. The Party II has not examined any witness and has thereby, failed to adduce any evidence to substantiate the grounds raised in para 3 of the written statement. In the absence of such evidence, issue No. 4 is answered in the negative.

19. *Issue No. 5:* The next question that falls for my determination is what relief the Party I is entitled to. In the case of **In-charge Officer & Anr v/s Shankar Shetty 2010(9) SCC 126 and Senior Superintendent Telegraph (Traffic) Bhopal v/s Santosh Kumar Seal & Ors AIR 2010SC 2140**, the Apex Court has reiterated that *"It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice."*

20. In the case of **Talwara Co-op. Credit & Service Society Ltd v/s Sushil Kumar (2008 (9) SCC 486)** the Apex Court has held that *"Grant of a relief of reinstatement, it is trite, is not automatic. Grant of back wages is also not automatic. The Industrial Courts while exercising their power under Section 11A of the Industrial Disputes Act, 1947 are required to strike a balance in a situation of this nature. For the said purpose, certain relevant factors, as for example, nature of service, the mode and manner of recruitment, viz., whether the appointment had been made in accordance with the statutory rules so far as a public sector undertaking is concerned etc., should be taken into consideration. For the purpose of grant of back wages; one of the relevant factors would indisputably be as to whether the Workman had been able to discharge his burden that he had not been gainfully employed after termination of his service."*

21. It is thus well settled that gainful employment is one of the relevant aspects that needs to be considered while granting the relief. As regards the onus of proving this aspect, **in Kendriya Vidyalaya Sangathan and Another v. S.C. Sharma, (2005) 2 SCC 363** the Apex Court has held that *"...When the question of determining the entitlement of a person to back wages is concerned, the employee has to show that he was not gainfully employed. The initial burden is on him. After and if he places materials in that regard, the employer can bring on record materials to rebut the claim."* Similarly, in the case of **U.P. State Brassware Corporation Ltd. v/s Udai Narain Pandey, reported in 2006 AIR(SC) 586**, the Apex Court has reiterated that *"It is now well-settled by various decisions of this Court that although earlier this Court insisted that it was for the employer to raise the aforementioned plea but having regard to the provisions of Section 106 of the Indian Evidence Act or the provisions analogous thereto, such a plea should be raised by the Workman."*

29. In the light of aforesaid principles, there can be no dispute that the burden was on the Party I to prove that the said four Workmen are not gainfully employed since the date of termination of their services. In the instant case, the service of the said four Workmen were terminated in the year 2002. The Party I has neither pleaded nor proved that these Workmen were not gainfully employed during this interregnum period. The Party I has also not explained how these Workmen have maintained themselves in this interregnum period. These facts lead to an inference that the said four Workmen are gainfully employed and are therefore not entitled for reinstatement. In my considered view, monetary compensation would meet the ends of justice. Considering the service period as well as the time in the litigation to get the legal dues, in my considered opinion, awarding compensation of ₹ 50,000/ to each of the Workmen in lieu of reinstatement shall be appropriate, just, and equitable.

Under the circumstances and in view of discussion supra, I pass the following order:

#### ORDER

1. The action of the management of M/s. Goa Coaters, Bethora, Ponda-Goa, in terminating the services of Shri Rajesh Waglekar,

Kum. Reshma Gawde, Kum. Shobha Gaonkar and Kum. Prema Gawade, with effect from 11-09-2001, is held to be illegal and unjustified.

2. The Party II is directed to pay to each of this four Workmen monetary compensation of ₹ 50,000/- within two months from the date of publication of award failing which the same shall carry interest at the rate of 9% p.a.

Inform the Government accordingly.

(A. Prabhudessai),  
Presiding Officer  
Industrial Tribunal-cum-  
-Labour Court-I.

**Notification**

No. 28/1/2012-LAB/68

The following award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 28-11-2011 in reference No. IT/15/1987 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*Hanumant T. Toraskar*, Under Secretary (Labour).  
Porvorim, 23rd January, 2012.

IN THE INDUSTRIAL TRIBUNAL-  
-CUM-LABOUR COURT  
AT PANAJI, GOA

(Before Smt. Anuja Prabhudessai,  
Hon'ble Presiding Officer)

Ref. No. IT/15/1987

Workmen rep. by  
The President,  
Goa Trade and Commercial  
Workers, Union,  
Velho Building,  
Panaji-Goa. ... Workmen/Party I

V/s

M.s. GKB Ophthalmics Limited,  
Caraswada, Tivim-Goa. ... Employer/Party II

Workmen/Party I represented by Adv. Shri S. Naik.  
Employer/Party II represented by Adv. Shri A. Nigalye.

**AWARD**

(Passed on this 28th day of November, 2011)

By order dated 7-4-1987, the Government of Goa, in exercise of powers conferred by Section 10 (1) (d) of the Industrial Disputes Act 1947, has referred the following dispute to this Tribunal for adjudication.

“Whether the action of the management of M/s. GKB Ophthalmics Ltd., Caraswada, Tivim, Bardez, Goa in retrenching the services of the following 13 Workmen with effect from 23-12-1986 is legal and justified?

Operators

1. Mr. Shivaji Satekar
2. Mr. Narayan Palekar
3. Mr. Ramnath Naik
4. Mr. Eknath Damle
5. Mr. Conceicao Dias
1. Mr. Jaidev Naik
2. Mr. Marshall Mendes
3. Mr. Narayan Bhat
4. Mrs. Seema Amonkar
5. Mr. Johnson D'Souza
6. Mr. Bapuso Patil
7. Mr. Machidranath Gauns
8. Mr. Krushnanand Naik.

If not, what relief these Workmen entitled to?”

2. On receipt of the reference, IT/15/87 was registered. Notices were issued to both parties, pursuant to which, Party I has filed claim statement at Exb. 2. Party II has filed its written statement at Exb. 3 and the rejoinder of the Party I is at Exb. 4.

3. The brief facts necessary to decide the reference are as under:

The Party II Company is engaged in the manufacture and export of Ophthalmic Lenses. The Party II has its factory and administration office at Tivim Industrial Estate, Mapusa, Goa. The Employees named in the reference were employed in the said factory. The Party II retrenched services of these Employees w.e.f. 23-12-1986. Aggrieved by this action the Party I raised an Industrial Dispute, which is the subject matter of the present reference.

4. The Party I has claimed that the Employees of Party II Company were working in pathetic service conditions. They were not provided basic facilities such as canteen, safety wear, rest room, first aid kit etc. Being dissatisfied with such working conditions the employees of Party II Company decided to unionize themselves and accordingly

on 24-8-1986 they became members of the Goa Trade and Commercial Workers Union. The fact of unionization and election of internal committee was informed to the Party II. The Party I has claimed that soon after the formation of the Union, the Party II informed the Party I that they were compelled to lay off some workers for a period of three months. Accordingly, some of the Workmen were laid off for a period of three months on rotation basis from 23-9-1986 to 23-12-1986. The Party I has claimed that on the day the lay off was to end; the Party II retrenched 28 Employees including the Workmen named in the reference, who were classified as operators and helpers. The Party I has claimed that the Party II had retrenched the said 28 Employees on the alleged ground that export of its product was adversely affected by sharp fall in oil prices and escalation of Gulf War and that it had no other alternative but to retrench the surplus Workmen and discontinue one shift operation.

5. The Party I has claimed that retrenchment orders were issued by S. K. Palo, who was not a competent authority to issue such orders. The reasons given by the Party II are not correct and that under the garb of retrenchment the Party II has terminated services of unionized Workmen. The Party I has further claimed that the Party II has not complied with Rule 76-78 of Industrial Dispute Central Rules, 1957 and has failed to comply with mandatory provisions of Sections 25F and 25G of Industrial Disputes Act. The Party I has claimed that the Party II had retrenched the Workmen on pick and choose basis. The Party I has therefore claimed that the retrenchment is in contravention of mandatory provisions of the Act and that the retrenchment is illegal and unjustified.

6. The Party I has claimed that the Party II had ignored the request to take up the issue of retrenchment before the Labour Machinery. Hence, the employees served a strike notice and went on strike w.e.f. 14-4-1987. The Party I has claimed that the Party II has started production of lenses in its sister unit known as Ophtha Laboratory Ltd. at Tivim. The Party II has recruited fresh Employees and that the production is optimum. The Party I claimed that the action of the Party II is illegal, unjust, malafide and vindictive. The Party I has therefore sought reinstatement of the workmen named in the reference with all consequential benefits.

7. Per contra, the Party II has claimed that it is a fully export oriented unit and that it is not entitled to sell any part of its production in the domestic market. The Party II has claimed that since the time it started its production till the year

1985, it was exporting its production in gulf countries. The Party II has stated that factors like sudden fall in oil prices and Iran-Iraq war resulted in sudden and substantial fall in export orders. The Party II Company tried to explore new market in Canada, USA etc. and was able to secure trial orders however the product exported in the new market was rejected on the ground that it was not of acceptable quality. As a result, the finished product as well as the raw material started accumulating and the Party II had no other option but to reduce the strength of its workforce by discontinuing the second shift. The management of the Party II Company had discussion with the Union and succeeded in convincing the Union of the grave situation faced by the Company. Accordingly, a settlement was arrived at before the Conciliation Officer whereby it was agreed to lay off Workmen working in the second shift for a period of three months from 23-9-1986 to 22-12-1986 and to pay lay off compensation at the rate of 75% of normal wages. The Party II has claimed that the lay off compensation paid to these Workmen was higher by 25% than that prescribed by law.

8. The Party II has stated that the market situation did not improve and as such, the only option available was to extend the lay off period or to retrench the surplus workers. The Party II has stated that the management held discussion with the workers and expressed readiness to extend the lay off period, but the Union demanded payment of 100% wages, which was not acceptable to the management. The Party II has claimed that under the circumstances it had no other option but to retrench the surplus workers. Accordingly, a list of workers whose services were to be retrenched depending upon their seniority was displayed on 16-12-1986. The Workmen were also issued notice and informed about the retrenchment and the reasons thereof. The said Workmen were also offered retrenchment compensation payable under the provisions of the law. The Party II has stated that the Workmen refused to accept the notices sent to them by Registered Post at their last known addresses. The Party II has stated that the retrenchment was bonafide, legal and justified. However the workers declared indefinite strike w.e.f. 23-12-1986 and demanded reinstatement of the workmen who were retrenched.

9. The matter was brought to the notice of the Conciliation Officer but the conciliation proceedings ended in failure. The Party II has stated that some workers had not joined the strike

while some joined work in response to the appeal by the management. Subsequently with improvement in the market condition, the Party II Company sent call letters to the retrenched workers, but only three workers joined duties and others did not avail the opportunity. The Party II therefore appointed some workers on temporary basis. The Party II has stated that out of 28 retrenched workers, fifteen workers had accepted their dues in full and final settlement before the reference whereas five other workers have accepted the dues after the reference. Hence, the reference as regards these five Workmen operators at serial Nos. 4 and 5 and helpers at Sr. Nos. 3, 6, 8 does not survive. The Party II has claimed that the retrenchment is bona fide, legal and justified and hence the Party I is not entitled for any relief.

10. Based on the aforesaid pleadings following issues were framed:

1. Whether the Party I proves that the retrenchment of the 13 Workmen named in the reference is illegal, unjustified and malafide?
2. Whether the Party II proves that the retrenchment of surplus Workmen was necessitated due to drop in export orders and other valid trade reasons?
3. Whether the Party II proves that the retrenched Workmen did not avail the opportunity of re-employment offered by it?
4. What relief? What order?

11. Both parties have produced documentary evidence. Besides, the Party I has examined Narayan Palkar, Livia Rodrigues and Raju Mangueshkar. Whereas the Party II has examined Shri Krishna Gupta and Prakash Joshi. Lnd. Adv. Shri S. Naik has argued on behalf of the Party I. He has argued that the Workmen had unionized themselves as they had to work under most oppressive conditions. Adv. Shri S. Naik has argued that immediately after unionization, the Party II declared lay off for a period of three months and subsequently retrenched 28 Workmen on the date lay off was to end. He has argued that the Workmen at Sr. Nos. 2, 4 and 5 were the office bearers of the union. Lnd. Adv. Shri S. Naik claims that the retrenchment was the consequences of unionization and this act amounts to victimization. Lnd. Adv. Shri S. Naik has further argued that the Party II has not complied with the mandatory provisions of Section 25 F of the Act. Though the Party II has claimed that it had offered

retrenchment compensation to the Workmen and that the Workmen had refused to accept the same, the Party II has not given details such as quantum of compensation, the mode of computation, the names of the Workmen who had accepted the compensation and those who had refused etc. Lnd. Adv. Shri Naik has argued that the notices produced by the Party II do not give details such as date or place from which the compensation was to be collected. He claims that the Party II had no bonafide intentions of making the payment. Lnd. Adv. Shri Naik has further argued that retrenchment was on pick and choose basis. He therefore claims that the Party II has contravened mandatory provisions of Section 25 F of the Act and that the workers are entitled for reinstatement with all consequential benefits. He has relied upon the judgment in the case of ... National Iron and Steel Company, Ltd. & ors v/s State of West Bengal (1967 II L.L.J. 23).

12. Lnd. Adv. Shri Nigalye has argued that export of product manufactured by Party II Company was adversely affected due to gulf war and fall in oil price in gulf countries. Hence, a settlement was arrived with the Union to lay off some workers for a period of three months. These workers were paid 75% of the salary as lay off compensation. Lnd. Adv. Shri Nigalye has further argued that since there was no improvement in market conditions the Party II proposed to extend the lay off but the offer was rejected by the Union. The Party II therefore had no other option but to retrench surplus Workmen. Lnd. Adv. Shri Nigalye has argued that a list of junior most workers was prepared and 28 junior most workers were retrenched. He has argued that the retrenched workers were issued notice and offered compensation. Some of the workers accepted the compensation whereas some refused to accept. Lnd. Adv. Shri Nigalye has argued that the fact that some of the retrenched Workmen had accepted compensation itself falsifies the case of the Party I that no retrenched compensation was offered. Lnd. Adv. Shri Nigalye has argued that the witness Narayan Palekar has admitted that he had accepted retrenchment compensation. The second witness examined by the Party I was not retrenched and Shri Raju Mangueshkar the Secretary of the Union had no personal knowledge about the payment. Lnd. Adv. Shri Nigalye therefore claims that Party I has failed to prove either victimization or contravention of mandatory provisions of Section 25F. He has argued that the evidence of Shri Prakash Joshi amply proves that the business of the Party II was adversely affected due to gulf war and that the

Party II had no option but to declare lay off for three months. Lnd. Adv. Shri Nigalye has further argued that the evidence on record amply proves that the Party II had offered compensation and complied with mandatory provisions of Section 25F. He therefore claims that the retrenchment is legal and justified. He has relied upon the case of Engineering and Ancillary Manufactures v/s Salim Khan (2004 II CLR 309).

13. I have perused the records and considered the arguments advanced by respective advocates and my findings on the issues are as under:

14. *Issue Nos. 1 and 2:* It is not in dispute that the Party II had laid off some workers for three months w.e.f. 23-9-1986 to 23-12-1986. It is also not in dispute that subsequently the Party II had retrenched 28 workers including the workers named in the reference w.e.f. 23-12-1986. The Party I has challenged the validity of retrenchment on the ground of victimization and non-compliance of mandatory provisions of Section 25F & 25G of the Act.

15. As regards the plea of victimization, the witness Shri Narayan Palekar has deposed that the management of Party II was trying to avoid formation of the Union. He has deposed that the management had called the individual workers and told them not to join the Union. He has deposed that the Party II Company had threatened to victimize them and terminate their services and further to start another unit in case they joined the Union. He has deposed that pursuant to the threat the Company started another unit called GKB Ophthalmic A/c, in the same vicinity.

16. It may be mentioned that neither the pleadings in the claim statement nor the evidence of Livia Rodrigues indicates that the management had called the individual Workmen and threatened them not to join the Union or to face consequences of victimization and termination. The pleadings also do not indicate that the Party II had threatened to start another unit, in case the workers joined the Union. Be that as it may, the witness Narayan Palkar has admitted in his cross-examination that initially the factory was in a rented premises and that subsequently it was shifted into a new premises. This witness has claimed that the factory in the new premises is operated in the name G.K. Ophthalmic A/c. Though he had denied the suggestion that the factory is running in the same name, the witness Livia Rodrigues has stated that the name of the factory in the new premises is G. K. B. Ophthalmic Ltd. Livia Rodrigues has admitted

in her cross-examination, that the same old factory is running in the new premises. It is to be noted that Krishna Gupta, the Chairman of Party II Company has also stated in his cross-examination that the construction of new shed had commenced in 1984 and completed in 1987. The machinery from the old shed was shifted in the new shed in the year 1988. Thereafter the old shed was surrendered to EDC. The evidence adduced by the Party II, which is also fortified by the witness Livia Rodrigues, clearly indicates that the Party II had not started a new factory but had shifted the factory from rental premises to new premises. There is absolutely no nexus between the unionization and shifting of the factory in the new premises. Consequently shifting of the factory in the new premises cannot be construed as an act of victimization.

17. The Party I has also claimed that the initial lay off and subsequent retrenchment was an act of victimization. Whereas the Party II has claimed that, it was compelled to declare lay off and order retrenchment because of drop in export orders due to adverse market conditions. In this context Shri Krishna Gupta, Chairman of the Party II has deposed that the Party II Company cannot sell its product in the local market, as it is a 100% export oriented company. He has deposed that the Party II was exporting its products to the Middle East countries mainly in Iran. He has deposed that orders from Iran were cancelled due to Iran-Iraq war. He has deposed that the gulf war as well as drop in oil price in the year 1985-86, adversely affected the export of product. The Party II Company tried to export the product to other countries but the other countries did not accept the product, as a result, the finished product accumulated in the factory and the same could not be disposed since the export was the only mode of sale. He has further deposed that the Party II was importing raw material from France and that the orders of raw material could not be cancelled and the available raw material could not be used due to cancellation of orders. As a result, the raw material accumulated in the factory. Hence, the Party II had meeting with the Workmen and explained the business situation. He has produced the minutes of the meeting at Exb. 22. He has deposed that the Party II offered to transfer the workers to the other unit of Goa Optolab Laboratory Pvt. Ltd. Some of the workers accepted the offer but others refused. He has deposed that since there was no improvement in the business situation the Party II Company decided to lay off the workers in the second shift. The Party II arrived at a settlement and thereafter

declared lay off and paid 75% compensation which was more than the legal due. He has produced the settlement at Exb. 24. He has deposed that subsequently the Company gave a notice of retrenchment and offered retrenchment compensation. He has deposed that some of the workers accepted compensation while others refused and proceeded on strike. The evidence of this witness vis-à-vis the settlement at Exb. 24 clearly indicates that the Party II Company had resorted to lay off as it was facing difficulty in exporting the finished product. The decision to lay off the Workmen of the second shift was taken in consultation with the Union.

18. It is to be noted that the witness Narayan Palkar has also admitted that the Party II Company was a 100% export oriented Company. He has admitted that the Party II Company cannot sell its product in the local market. He has admitted that the Party II Company was importing raw material from France. He has admitted that in the year 1985-86 there was drop in the export orders due to the war between Iran and Iraq. He has admitted that there was a committee of workers and that there was meeting between the committee and the management wherein the matter of lay off, which was a consequence of recession, was discussed. He has admitted that the management and the committee had signed a settlement before the labour commissioner wherein the Union had agreed for lay off and the Company had agreed to pay 75% wages. He has deposed that the Company had declared lay off on the ground of recession in the orders. He has further admitted that there was discussion between the committee and the management before the Party II resorted to retrench the Workmen. He has admitted that the Party II Company had offered to extend the lay off period but the Union had insisted upon 100% payment. He has also stated that the Company had hinted at retrenchment.

19. The evidence of this witness supports the case of Party II that the decision to lay off the Workmen was necessitated due to drop in export orders and that the said decision was taken after discussion and with the consent of the Union. The evidence of this witness further fortifies the case of the Party II that it had tried to avoid retrenchment by extending the lay off period but the demand by the Union for 100% wages had

resulted in ordering retrenchment of surplus workforce. Thus, the evidence of this witness clearly falsifies the contention that the lay off and subsequent retrenchments were acts of victimization.

20. The Party I has also challenged the legality of retrenchment on the ground of contravention of mandatory provisions of Section 25F and 25G of the Act. It may be mentioned that Section 25F mandates that no Workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) The Workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the Workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) The Workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months;

Whereas Section 25G of the Act provides for the procedure for retrenchment. This section introduces the rule of 'last come first go'. In terms of this rule an employer is ordinarily required to retrench the Workman who was the last person to be employed in that category.

21. It is therefore necessary to decide whether in retrenching the Workmen the Party II has contravened these requirements. In this regard Raju Mangeshkar, the General Secretary of the Union, has deposed that the Party II had not issued retrenchment notice, had not paid compensation in lieu of the notice and had not paid retrenchment compensation to the workers. He has further deposed that the Party II had not displayed the seniority list and had not followed the principles of last come first go. Whereas the Party II has claimed that in terms of Rule 77 of Industrial Disputes (Central) Rules, a list of Workmen who were to be retrenched depending upon their seniority was displayed on the notice board seven days before the actual date of retrenchment. Besides, a notice indicating the reasons of retrenchment was displaced on the

notice board. By another notice, the workers were informed about the retrenchment and they were offered retrenchment compensation due under the provisions of the Act, and they were informed to collect the same from the office of the Company. The Party II has stated that a copy of the notice was also forwarded to the Union. In this context, Shri Prakash Joshi, the General Manager of the Party II Company has also deposed that before retrenching the Workmen the Party II had prepared a list of the Workmen who were to be retrenched, depending upon the seniority of service in each category. The said list was displayed on the notice board of the factory on 16-12-1986. By notice dated 16-12-1986 the workers were informed about the retrenchment. The reasons of the retrenchment were disclosed and the workers were offered retrenchment compensation. He has further deposed that by letter dated 17-12-1986 the concerned workers were informed that their services would be terminated by way of retrenchment w.e.f. 23-12-1986. These 28 Workmen included the Workmen named in the reference. By the said letters, they were offered wages in lieu of one-month notice and retrenchment compensation, which they were advised to collect from the office of the Company. He has deposed that the said notices were sent on last known addresses of each of the concerned Workmen however they refused to accept the same. He has produced copies of notices dated 17-12-1986 and postal receipts at Exb. 51 and 52 colly. He has deposed that the Workmen had not approached the office to collect the compensation nevertheless out of 28 retrenched workers 15 workers accepted the compensation before the dispute was referred. In his cross examination he has stated that the acknowledgment cards and envelops were misplaced while shifting the records to the new premises sometime in the year 1989. He has denied the suggestion that the Workmen had not refused to accept the notices. He has also denied the suggestion that the letters at Exb. 51 colly were fabricated subsequently.

22. It is to be noted that in para 16 of the written statement the Party II had specifically averred that retrenchment notices were issued to the concerned Workmen and that they had refused to accept the same. The Party II had also produced the list of the 28 Workmen and a copy of the retrenchment notice alongwith the written

statement. The Party I had not specifically disputed the contents of the said para as well as the genuineness of the said documents which were produced alongwith the written statement. This being the case there is no merit in the contention that the letters are fabricated.

23. It is also pertinent to note that Shri Krishna Gupta, the chairman and MD of the Party II Company has deposed that since the market position did not improve even after the lay off, the Party II gave a notice of retrenchment and offered compensation and other legal dues. He has deposed that some workers accepted the compensation while most of the workers went on strike. In his cross examination he has stated that the retrenchment compensation was sent to the workers by registered post and that some workers accepted the compensation, some refused to accept and some notices returned unserved. It may be mentioned that the Party I had not denied this statement but had challenged the authority of Shri Palo to sign retrenchment notices, retrenchment letters, and seniority list.

24. It is also pertinent to note that the witness Shri Narayan Palkar has stated in his examination-in-chief that lay off period came to end on 23-12-1986 and on the very day, he and some other workers were issued retrenchment letters. He has deposed that on the same day when he had entered the factory premises he saw retrenchment notice displayed on the notice board. He has deposed that the said notice did not disclose any reasons. He has deposed that the Union had questioned the management about the notice but since the management did not reply, Union served a notice of strike. He has further stated that out of 28 workers who were retrenched many had accepted retrenchment compensation. He has deposed that 13 workers had not accepted compensation because the company had work to offer and they were willing to work. It is also pertinent to note that this witness has admitted in his cross-examination that the Company had displayed the seniority list before retrenching the Workmen. He has claimed that he had seen the said list only on 23-12-1986 and that he had not seen whether the Company had displayed a notice of retrenchment on 16-12-1986, wherein the reasons of retrenchment were given. However, he has admitted that copy of the seniority list and the notice containing reasons of retrenchment was sent to the Union. He has further stated that he does not know whether the company had sent retrenchment letters alongwith the offer of retrenchment compensation to the individual Workmen.

25. The fact that the Party II had displayed a notice of retrenchment on the notice board and sent a copy of the same to the Union falsifies the case of the Party I that the Party II had not disclosed the reasons of retrenchment. The fact that some of the Workmen had accepted the compensation and others had refused to accept the same on the ground that the Company had work to offer further falsifies the claim that the Party II had not offered retrenchment compensation. The evidence of this witness falsifies the case of the Party I that the Party II had not prepared a seniority list, not issued retrenchment notice and had not disclosed the reasons of retrenchment or that the workers were retrenched on pick and choose basis.

26. It may be mentioned that in the case of National Iron and Steel Company, Ltd. & ors v/s State of West Bengal (1967 II L.L.J. 23) retrenchment was held to be illegal as the workers were asked to collect the dues subsequent to the retrenchment. In the instant case, the Workmen were not asked to collect the dues after the retrenchment but the retrenchment notice was issued much before the actual retrenchment and the Workmen were called upon to collect the dues from the office. Under these circumstances, the aforesaid decision is not applicable to the facts of the present case.

27. It may be mentioned that in the case of Engineering and Ancillary Manufactures v/s Salim Khan (2004 II CLR 309) the Workman had alleged contravention of section 25 F. The Hon'ble High Court has held that when the employer had offered notice pay and compensation and had required the Workman to collect the same from the office and the Workman had refused to accept the same there was no violation of section 25 F of the Act. The facts of the present case are similar to the facts of this case. In the instant case, the evidence on record clearly indicates that the Party II had prepared a seniority list and had given notice of retrenchment to the workers as well as the Union. The Party II had also offered retrenchment compensation and called upon the Workmen to collect the same from the office. Some of the Workmen had refused to accept the same on the ground that the Party II Company had work to offer. The Party II had therefore complied with the requirement of Section 25 F as well as 25 G of the Act.

28. It is also pertinent to note that on 12-6-1989, the Party II had placed on record an application at Exb. 14 (Exb. 16) whereby the witness

Narayan Palkar and Managing Director of the Party II had requested the Tribunal to draw an Award as per the terms of settlement (Exb. 15) annexed to the said application. The Party II had placed on record letter dated 24-5-1989 at Exb. 16 whereby the Party II had informed the Party II that he was not interested in pursuing the dispute and had requested the Party II to pay his dues and settle the dispute. The witness Narayan Palkar has admitted his signature on the letter at Exb. 16, on the settlement at Exb. 15 and the memorandum at Exb. 14 which were filed before the Tribunal. This witness has claimed that he did not know the contents of the application/terms. In this re-examination, he has stated that on 24-5-1989 he had gone to the factory to get a certificate of service at which time Saroj Palo, the Administrative Officer of the Party II Company, slapped him, and forced him to sign some papers under the threat that he would be beaten by goondas from Bombay. It is to be noted that this witness has admitted that he can read English and this leads to an inference that he was aware of the contents of the said terms, memorandum/letter. Furthermore, he has stated that Company had given him a packet when he had settled the matter. He has stated when he opened the packet after he reached home and found that the packet contained Rs. 2,000/. He has also admitted having signed a receipt. He further claims that he did not know for what purpose he was paid Rs. 2,000/- yet he admits not having returned the same. The above evidence clearly indicates that the witness was aware of the settlement. It is also to be noted that the said documents were signed when the evidence of this witness was partly recorded and the matter was pending before the Tribunal for further evidence of this witness. The witness was not only represented by the Union but was represented by a lawyer.

Though the witness has claimed that his signatures on the said documents were obtained under threat, he has admitted that he had not complained either to the police or to the Union about the said incident. The above conduct falsifies the story of threat. Thus, the evidence on record clearly indicates that in the course of the proceeding this witness has received compensation towards full and final settlement of his claim. This being the case, this witness is not entitled for any relief and has no locus to advocate the case of the other retrenched Workmen. The evidence on record further indicates during the pendency of the proceeding five Workmen named in reference have accepted compensation towards

full and final settlement of their dues. These five Workmen namely Mr. Eknath Damle, Mr. Conceicao Dias, Mr. Narayan Bhat, Mr. Bapuso Patil and Mr. Krushnanand Naik have not contravened the statement made by the Party II and have not come forward to depose in favour of the Party I. This fortifies the case of the Party II that these Workmen have received their dues and settled the dispute during the pendency of the dispute and consequently these Workmen are also not entitled for any relief. The Party I has not examined any other Workman who was retrenched or who was allegedly not offered retrenchment compensation and has thereby failed to prove contravention of mandatory provisions of Section 25F or section 25G of the Act. On the contrary, the evidence on record clearly indicates that the retrenchment was necessitated due to adverse market conditions and that the Party II had retrenched the workers after complying with the mandatory conditions. Under the circumstances issue No. 1 is answered in the negative and issue No. 2 is answered in the affirmative.

29. Issue No. 3: The evidence of Krishna Gupta further indicates that after the improvement in the market condition the Party II had given notice to the retrenched workers to join duty. He has deposed that some workers had joined while some refused to join. He has deposed that since some employees had not reported for duty the Party II had to recruit new employees. This statement is further fortified by Shri Narayan Palkar as he has also admitted that the Company had sent letters asking the Workmen to join work. He has admitted having refused to join work. The Party II had thus complied with Section 25-H of the Act. Hence, issue No. 3 is answered in the affirmative.

To sum up the Party I has failed to prove that the retrenchment is illegal or unjustified. Hence the workers named in the reference are not entitled for any relief. Hence I pass the following order.

#### ORDER

1. The action of the management of M/s. GKB Ophthalmics Ltd., Caraswada, Tivim, Bardez, Goa in retrenching the services of the following 13 Workmen with effect from 23-12-1986 is legal and justified.

Operators	Helpers
Mr. Shivaji Satekar	1. Mr. Jaidev Naik
Mr. Narayan Palekar	2. Mr. Marshall
Mr. Ramnath Naik	Mendes

Operators	Helpers
Mr. Eknath Damle	3. Mr. Narayan Bhat
Mr. Conceicao Dias	4. Mrs. Seema Amonkar
	5. Mr. Johnson D'Souza
	6. Mr. Bapuso Patil
	7. Mr. Machidranath Gauns
	8. Mr. Krushnanand Naik.

2. The aforesaid Workmen are not entitled to any relief.

Inform the Government accordingly.

(A. Prabhudessai),  
Presiding Officer,  
Industrial Tribunal-cum-  
-Labour Court-I.

—♦—  
Inspectorate of Factories & Boilers

#### Notification

No. CIF/046/2011/3728

In exercise of the powers conferred by sub-section (1) of Section 85 of the Factories Act, 1948 (Central Act LXIII of 1948) (hereinafter called the "said Act") and in supersession of the Government Notification No. CIF/046/2011/1891 dated 27-9-2011, published in the Official Gazette, Series II No. 26 dated 29-9-2011, the Government of Goa hereby declares that all the provisions of the said Act shall apply to all places in the State of Goa wherein a manufacturing process as specified in Schedule below is carried on with or without the aid of power or is so ordinarily carries on, notwithstanding that,—

- (i) the number of persons employed therein is less than ten, if working with the aid of power and less than twenty, if working without the aid of power, or
- (ii) the persons working therein are not employed by the owner thereof but are working with the permission of, or under agreement with, such owner:

Provided that such manufacturing process is not being carried on by the owner only with the aid his family.

#### SCHEDULE

Crushing, breaking, chipping, dressing, grinding, sieving, mixing, grading or handling of stone or

any other solid material containing not less than 5% by weight of free silica.

By order and in the name of the Governor of Goa.

*S. M. Paranjape*, Chief Inspector & Joint Secretary (Factories & Boilers).

Porvorim, 27th January, 2012.



### Department of Planning

Directorate of Planning, Statistics and Evaluation

—  
**Order**

No. 4-14-92-PLG/DPSE(part file)/2480

Read: Order No. 4/14/92-PLG/DPSE(part file)/1226 dated 30-08-2011.

Promotion granted to Kum. Ida Araujo, Statistical Assistant of Common Statistical Cadre to the post of Research Assistant (Group 'B' Gazetted) vide Order No. 4/14/92-PLG/DPSE(part file)1226 dated 30-08-2011 read in preamble is hereby cancelled since she has refused to accept the said promotion.

By order and in the name of the Governor of Goa.

*Anand Sherkhane*, Director & ex officio Joint Secretary (Planning).

Panaji, 25th January, 2012.



### Department of Revenue

—  
**Order**

No. 23/18/2010-RD

Whereas, the Government of Goa, vide Notification No. 23-18-2010-RD dated 24-09-2010, issued under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Act 1 of 1894) (hereinafter referred to as the "said Act"), and published in the Official Gazette, Series II No. 27 dated 30-09-2010, notified that the land specified in the Schedule thereof (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for construction of Sewerage Treatment Plant at Mapusa in Survey No. 104-1/1 to 104-1/19 in Mapusa Constituency (hereinafter referred to as the "said public purpose");

And whereas, the Government of Goa considered the report made by the Collector under sub-section (2) of Section 5A of the said Act and on being satisfied that the said land is needed for the said

public purpose, vide Notification No. 23-18-2010-RD dated 28-09-2011, issued under Section 6 of the said Act, and published in the Official Gazette, Series II No. 27 dated 07-10-2011, declared that the said land is required for the said public purpose.

Now, therefore, in exercise of the powers conferred by Section 7 of the Land Acquisition Act, 1894 (Act 1 of 1894), the Government of Goa hereby directs the Collector, North Goa District, Panaji-Goa to take the order for acquisition of the said land.

By order and in the name of the Governor of Goa.

*Neela S. Dharwadkar*, Under Secretary (Rev-I)/Link.

Porvorim, 24th January, 2012.

—  
**Order**

No. 23/43/2009-RD

Whereas, the Government of Goa, vide Notification No. 23/43/2009-RD dated 05-04-2010, issued under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Act 1 of 1894) (hereinafter referred to as the "said Act"), and published in the Official Gazette, Series II No. 3 dated 15-14-2010, notified that the land specified in the Schedule thereof (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for re-alignment of State Highway No. 13.55 km. to 17.89 km. (Bicholim bye-pass (hereinafter referred to as the "said public purpose");

And whereas, the Government of Goa considered the report made by the Collector under sub-section (2) of Section 5A of the said Act and on being satisfied that the said land is needed for the said public purpose, vide Notification No. 23/43/2009-RD dated 23-05-2011, issued under Section 6 of the said Act, and published in the Official Gazette, Series II No. 8 dated 26-05-2011, declared that the said land is required for the said public purpose.

Now, therefore, in exercise of the powers conferred by Section 7 of the Land Acquisition Act, 1894 (Act 1 of 1894), the Government of Goa hereby directs the Collector, North Goa District, Panaji-Goa to take the order for acquisition of the said land.

By order and in the name of the Governor of Goa.

*Neela S. Dharwadkar*, Under Secretary (Rev-I)/Link.

Porvorim, 27th January, 2012.

OFFICIAL GAZETTE — GOVT. OF GOA

SERIES II No. 44

2ND FEBRUARY, 2012

**Notification**

No. 23/3/2010-RD

Whereas by Government Notification No. 23/3/2010-RD dated 29-03-2010 published on pages 34 & 35 of Series II No. 2 of the Official Gazette, dated 08-04-2010 and in two newspapers (1) "Lokmat" dated 31-03-2010 and (2) "Herald" dated 31-03-2010, it was notified under Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act") that the land specified in the Schedule appended to the said Notification (hereinafter referred to as the said land) was needed for public purpose viz. Land Acquisition for construction of Assonora bye-pass road (Additional Area).

And whereas, the Government of Goa (hereinafter referred to as "the Government") after considering the report made under sub-section (2) of Section 5-A of the said Act is satisfied that the land specified in the Schedule hereto is needed for the public purpose specified above (hereinafter referred to as "the said land").

Now, therefore, the Government hereby declares, under the provisions of Section 6 of the said Act that the said land is required for the public purpose specified above.

The Government also hereby appoints, under clause (c) of Section 3 of the said Act, the Land Acquisition Officer, PWD (Cell), Altinho, Panaji-Goa to perform the functions of the Collector, for all proceedings hereinafter to be taken in respect of the said land and directs him under Section 7 of the said Act to take order for the acquisition of the said land.

3. A plan of the said land can be inspected at the office of the Land Acquisition Officer, PWD (Cell), Altinho, Panaji-Goa till the award is made under Section 11.

**SCHEDULE**

(Description of the said land)

Taluka: Bicholim

Village: Mulgao

Survey No./ /Sub-Div. No.	Names of the persons believed to be interested	Area in sq. mts.
1	2	3

121 5 p O: 1. Ganpat Shayamrao  
Vishwasrao D.  
2. Jairam Savlo Bhagat.

Taluka: Bardez

Village: Assonora

42 11 p O: Otelino Fermo Rocha. 90  
T: Florencia Vaz.

1	2	3
25 p	O: Otelino Fermo Rocha. T: Mahadeo Venkatesh Salgaonkar.	162
56 p	O: Otelino Fermo Rocha. T: Harichandra Laxman Salgaonkar.	130
43 4 p	O: Precy Fernandes. T: Mortu Govind Salgaonkar. ½ Sada Govind Salgaonkar. ½	420
29 1 p	O: Comunidade.	26
28 32 p	O: Comunidade.	547
22 3 p	O: Patrocimo Dejose Soares. T: Mortu Govind Salgaonkar. Anusaya Salgaonkar.	129
17 p	O: Comunidade. T: Romaldo Estivao Mendes.	80
19 1 p	O: Comunidade. T: Mandeo Datta Bamamlikar.	500
2 p	O: Comunidade. T: Sangam Baburao Naik.	475
3 p	O: Comunidade. T: Pandari Shiva Chodankar.	505
4 p	O: Comunidade. T: Navnath Datta Bamaulikar.	500
5 p	O: Comunidade. T: Pundalika Pandhari Narvekar.	240
6 p	O: Comunidade. T: Eliza Fernandes.	235
7 p	O: Comunidade. T: 1. Kashi Bhiki Sawakl. 2. Vasant Datta Chodankar.	245
8 p	O: Comunidade. T: Vasu Bhajo Chodankar.	230
74 8 p	O: Comunidade. T: Konkan Railway Corporation. Mario Rosa Sequeira.	478
70 1 p	O: Comunidade. T: Konkan Railway Corporation. Bela Fernandes.	50
58 12 p	O: Nicalus Mendonsa. T: Budgo Gaonkar.	115

*Boundaries :*

North : S. No. 42/56, 11, 25, 28/22 to 26  
43/4, 22/17, Nalla, 20/1 to 10,  
14/19, 22/78, 74/7, 56/9, 70/1.

South : S. No. 42/56, 11, 25, 42/50, 51,  
52, 53, 4, 22/17, 3, 28/36, 32,  
19/1 to 8, 74/8, 70/1, 38/12.

1	2	3
East	: S. No. 42/58, 11, 34, 1, 12, 21/3, 22/4, 18, 10, 28/31, 27, 21/4, 43/24, 18, 10, 28/31, 27, 21/4, 43/24, 14/13, 9, Nallah, 74/8, 73/8, 70/2, 58/12, 121/5.	
West	: S. No. 42/10, 24, 43/45 to 49 22/16, 2, 28/32, 121/3, 20/12, 74/8, 64/22, 58/12, 121/5.	
Total: 5232		

By order and in the name of the Governor of Goa.

*Neela S. Dharwadkar*, Under Secretary (Rev-I)/Link.  
Porvorim, 24th January, 2012.

**Notification**

No. 23/7/2011-RD

Whereas by Government Notification No. 23/7/2011-RD dated 09-03-2011 published on Series II No. 51 of the Official Gazette, dated 17-03-2011 and in two newspapers (1) "Herald" dated 12-03-2011 and (2) "Lokmat" dated 12-03-2011, it was notified under Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act") that the land specified in the Schedule appended to the said Notification (hereinafter referred to as the said land), was needed for the public purpose viz. Land Acquisition for const. of new road as (Phase-I) in the Jurisdiction of V. P. Assolna of Salcete Taluka.

And Whereas, the Government of Goa (hereinafter referred to as "the Government") after considering the report made under sub-section (2) of Section 5-A the said Act is satisfied that the land specified in the Schedule hereto is needed for the public purpose specified above (hereinafter referred to as "the said land").

Now, therefore, the Government hereby declares, under the provisions of Section 6 of the said Act that the said land is required for the public purpose specified above.

The Government also hereby appoints, under clause (c) of Section 3 of the said Act, the Sepecial Land Acquisition Officer, SIP Gogal, Margao-Goa to perform the functions of the Collector for all proceedings hereinafter to be taken in respect of the said land, and directs him under Section 7 of the said Act to take order for the acquisition of the said land.

A plan of the said land can be inspected at the Office of the Special Land Acquisition Officer, SIP Gogal, Margao-Goa till the award is made under Section 11.

**SCHEDULE**

(Description of the said land)

Taluka: Salcete		Village: Assolna
Survey No./ /Sub-Div. No.	Names of the interested parties	Approx. area in sq. mts.
1	2	3
48/7 (p) O:	Communidade of Assolna. <i>Other Rights:</i> Idalacao Rodrigues.	3
6 O:	1. Dr. Tito Antonio Vaz. 2. Sandeep B. Jadhav. 3. Pramila Mayenkar. <i>Other Rights:</i> 1. Balaji Mandrekar. 2. Shrikant Mandrekar. 3. Ratnakar Mandrekar. 4. Ashok Mandrekar. 5. Vallab Mandrekar. 6. Vasant Mandrekar. 7. Govind Jadav. 8. Bagavant Jadav. 9. Yoganand Arolkar.	64
14 O:	1. Roque Rodrigues. 2. Liberato Rodrigues. 3. Policarpo Rodrigues.	105
24 O:	Caitano Joao Rodrigues.	35
23 O:	Augusto Natividade Claudio Afonso.	26
34 O:	Roberto Carvalho.	72
22 O:	Avelina D'Souza. <i>Other Rights:</i> Flora Pis Menezes.	9
21 O:	1. Maria Piedade Fernandes. 2. Lourencia Marian Filomena Terezinha Menino Jesus Rodrigues. 3. Rosslias Rodrigues. 4. Rony Francis Rodrigues.	21
39 O:	1. Josephine Rodrigues. 2. Esperanca Rodrigues.	34
45 O:	1. Ram Ananta Ginde. 2. Shri Durgadas Hari Naik.	43
43 O:	1. Dr. Rui Vaz. 2. Assis Rodrigues. 3. Smt. Romula Rodrigues. 4. Smt. Luizinha Nazario Cruz Fernandes. 5. Pramod Chodnekar & Associate.	392

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1	2	3
6. Jose Noronha.		
7. Ana Berta Costancianous Fernandes Afonso.		
8. Socorro Cardoz.		
9. Conceicao Rosario Martinho Fortunato Mendes.		
<i>Other Rights:</i>		
1. Balaji Gabgaram Na.		
2. Vishwanath Kashinath.		
3. Gopal Shirodkar.		
4. Shivram Mandrekar.		
5. Rajaram Ganesh.		
6. Somnath Datta Vad.		
7. Maria Lukrinea Fernandes.		
<i>Boundaries :</i>		
North : S. No. 48/14, 6, 7, 23.		
South : S. No. 48/43, 34, 24, 6, 7.		
West : S. No. 48/14, 23, 22, 21, 48/39, 43, 45.		
East : Nalla, S. No. 48/24, 34, 39, 45, 43, 23, 34.		
Total: 804		

By order and in the name of the Governor of Goa.

Neela S. Dharwadkar, Under Secretary (Rev-I)/Link.

Porvorim, 27th January, 2012.

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**Addendum**

No. 23/8/2011-RD

Read: Government Notification No. 23/8/2011-RD dated 20-04-2011 regarding Land Acquisition for widening and Improvement of S.H.1 between Assonora Bridge and Bicholim Municipal Council Limit (km. 9.80 to km. 17.600) in a length of 7.80 km. in Bicholim Constituency. Published in the Official Gazette, Series II No. 4 pages 81 to 94 dated 28-04-2011.

With respect to above Notification the names of the following persons believed to be interested shall be added serially under column No. 2 against the respective survey Nos. mentioned in column No. 1.

Taluka: Bicholim		Village: Mulgao
Survey No./Sub-Division No.		Nature of Right
1	Names of the persons believed to be interested which were not notified in Notification No. 23/8/2011-RD	3
159/5	2. Yeshwant Datta Vaiganker.	Other rights
158/1	1. Yeshwant Datta Vaiganker.	— do —
158/3	1. Gopal Narayan Vaiganker. 2. Kiru Narayan Vaigankar. 3. Dnyaneshwar Vishnu Vaiganker.	— do —
	4. Ramchandra Datta Vaiganker.	
	5. Hiru Datta Vaiganker.	
	6. Mukund Bhikaro Naik Kavleker.	
	7. Yeshwant Datta Vaiganker.	
153/5	1. Uttam Deuli.	— do —
150/1	1. Shambhu Vithal Kalangutkar.	— do —
150/2	1. Vishnu Vithal Gad.	— do —
146/20	1. Pandurang Bhimo Sherleker.	— do —
143/2	1. Mahadev Bhima Sherleker.	— do —
1/2	1. Pandurang V. Dhond.	— do —
1/3	1. Narayan Keshav Dhond.	— do —
1/11	1. Srimati Saraswati Dinanath Shirodkar. 2. Mohan Pandurang Shirodkar.	— do —
1/13	1. Ravindra Vaman Shirodkar.	— do —
1/17	1. Ramkrishna Shankar Pauskar.	— do —
155/1	1. Babi Shiva Siolkar. 2. Atmaram Govind Siolkar.	— do —
196/5	1. Bhiki Gopal Bugdo. 2. Pandurang Gopal Bugdo.	— do —
196/6	1. Pandurang Narayan Vaiganker.	— do —
194/0	1. Mukund Bhikaro Naik Kavleker.	— do —
176/7	1. Ramchandra Babaji Halanker.	— do —
122/3	1. Yeshwant Shalu Chimulkar.	— do —
122/4	1. Laxman Shabi Chimulker. 2. Shitaram Shabi Chimulker.	— do —
123/3	1. Ramchandra Vasu Mayekar. 2. Sonu Vasu Mayekar.	— do —

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1	2	3
125/1	1. Mukund Bhikaro Naik Kavlekar.	Other rights
268/0	1. Shambhu Jaivant Maideker. 2. Ganapat Dattaram Joshi.	— do —
260/1	1. Sajalo Shablo Gad. 1/9 1. Government Primary School.	— do —
1/16	1. Balchandra Mahadev Sherlekar.	— do —
<i>Taluka:</i> Bicholim		<i>Village:</i> Bordem
35/3	1. Natha Arjun Narvekar.	Other rights
61/1	1. Krishna Guno Kazari. 2. Gajanan Bhat Valvi. 3. Keshav Yesso Thakur. 4. Sonu Babalo Kazari. 5. Sajalo Babalo Gad. 6. Vithal Kasko Gad.	— do —
36/4	1. Natha Arjun Narvekar. 2. Temple of Shri Devi Shirvanti.	Tenant Other right
11/5	1. Udaya N. Naik.	Other right
11/17	1. Vassudev Pundalik Mavlingkiar.	Tenant
12/5	1. Shri Dev Dattatreya's Temple.	Other right
7/16	1. Tarabai Sitaram Naik. 2. Narahari Sitaram Naik. 3. Ganesh Sitaram Naik. 4. Kumudini Sitaram Naik.	Other right
3/81	1. Yesso Shiva Malgaokar.	— do —
6/18	1. Shripad Shankar Harmalkar.	— do —
3/20	1. Mograbai Bordekar.	— do —
3/62	1. Manikabai Bordekar.	— do —
<i>Taluka:</i> Bicholim		<i>Village:</i> Bicholim
6/30	1. Krishna Gopal Pal.	Other right

The rest of the contents of the above read notification remain unchanged.

By order and in the name of the Governor of Goa.

*Neela S. Dharwadkar*, Under Secretary (Rev-I)/Link.

Porvorim, 24th January, 2012.

**Department of Printing & Stationery**

—  
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Published and Printed by the Director, Printing & Stationery,  
Government Printing Press,  
Mahatma Gandhi Road, Panaji-Goa 403 001.

**PRICE—Rs. 36.00**